

VILLARI, BRANDES & KLINE, P.C.

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Attorneys for Plaintiffs

**IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PA
PREMISES LIABILITY ACTION - CIVIL CASE**

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W
179 Avella Road
Hickory, PA 15340

Plaintiffs

v.

Docket No. 2010-3954

Term, 2010

Jury Trial Demanded

RANGE RESOURCES CORPORATION
380 Southpointe Boulevard
Canonsburg, PA 15317

-and-

WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM
1550 Coraopolis Heights Road, 2nd Floor
Moon Township, PA 15108

-and-

MARKWEST ENERGY PARTNERS, L P
MARKWEST ENERGY GROUP, L L C
100 Plaza Drive, Suite 102
P O Box 279
Atlasburg, PA 15004

-and-

PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION
400 Waterfront Drive
Pittsburgh, PA 15222-4745

Defendants

FILED
MAY 27 2010

2010 MAY 27 PM 12:38

**PLAINTIFF'S MOTION TO STAY ALL RULES TO FILE COMPLAINT AND FOR
LEAVE OF COURT TO CONDUCT PRE-COMPLAINT DISCOVERY IN THE
NATURE OF INFORMATION AND DOCUMENT PRODUCTION FOR THE PURPOSE
OF DRAFTING AND SERVING A SUFFICIENT COMPLAINT, AND MOTION TO**

**STAY PROCEEDING FOR A SUFFICIENT PERIOD TO ALLOW PLAINTIFF TO
CONDUCT DISCOVERY**

AND NOW, come Plaintiffs, through their attorneys, Villari, Brandes & Kline, P C., to respectfully request that this Honorable Court grant them leave to conduct Pre-Complaint discovery in the nature of information and document production and to take Pre-Complaint depositions for the purpose of obtaining facts and other information that will enable Plaintiffs to draft and serve a sufficient Complaint in this action and grant a stay of all proceedings in the above-captioned action for a sufficient period of time to complete the discovery. In support thereof, Plaintiffs assert the following:

1. Plaintiffs commenced this complex toxic tort and injunctive matter against the Defendants by filing a Writ of Summons on May 26, 2010. A true and correct copy of the Writ of Summons is attached hereto as Exhibit "A."
2. The aforementioned Civil Action results from Private Defendants' failure to operate their gas drilling operations and gas processing facilities in such a manner as to not interfere with the Plaintiffs' enjoyment of their property rights and in such a manner as consistent with Pennsylvania environmental law which prohibits pollution of the air, waters and soil with harmful and /or toxic substances. The Civil Action further results from the Department of Environmental Protection's failure and refusal to enforce Pennsylvania law against the aforementioned Defendants and its affirmative violation of Plaintiffs' civil rights, to be free from State-Created Danger.
3. On June 28, 2005, the Plaintiffs purchased property to build a home for themselves and their young children in a pastoral rural area in Hickory, Pennsylvania. Unknown to the Plaintiffs, the prior owner, Nancy Stewart, had subdivided the property and sold a portion thereof to Defendant Range Resources for the purpose of drilling natural gas wells to be developed with

chemical fracking (a process by which chemical fluids are injected underground for the purpose of breaking Marcellus shale so as to harvest the natural gas) A lease to the mineral rights under Plaintiffs property had also been executed by Ms. Stewart

4. Subsequent to purchase of the lot, Plaintiffs had their home constructed, whereby the home was fully framed by May, 2007 As there was no public water supply to the area, a residential usage required that a well be installed. This water well was completed in October 2007.

5. In July 2007, without any prior notification to the Plaintiffs as was legally required and despite the fact that Plaintiffs were neighboring landowner with a fully framed residence, Defendant Range Resources installed a gas well (Stewart Well #8) and began the chemical fracking of that well in September 2007.

6. Stewart Well # 8 is located less than 1000 feet from the Plaintiffs' property There is also a three acre impoundment that sits immediately adjacent to the family property. Testing done by Defendant Range Resources and the Department of Environmental Protection indicate that this pond contains acetone despite the fact that it was permitted to be a fresh water impoundment associated with the drilling activities. Recently, another nearby impoundment owned and/or operated by Defendant Range Resources was found to be leaking due to liner problems such that Plaintiffs are reasonably concerned that the impoundment may be a source and /or threat of contamination to their property

7. Three other gas wells (Stewart Well #1, Stewart Well #4 and Stewart Well #6) surround the Plaintiffs' home and drilling was executed between May and August of 2007; all without notice to the Plaintiffs

8. In 2008, Defendant Mark West Group built the Stewart Compressor station less than 580

yards from the family home, in order to transport the natural gas to market.

9. In 2008, Defendant Laurel Mountain Midstream built a gas conditioning facility, Laurel Mountain Midstream Dew Point Control Facility, approximately 340 yards from the family home in order to prepare the gas for market
10. The area in which all of the Defendant industry is located is zoned agricultural. Upon information and belief, zoning laws were not properly followed and/or enforced such that the Defendants were enabled to build in this agricultural area in proximity to and impacting upon residential property, without proper application and zoning permits.
11. Shortly after Stewart Well # 8 was drilled, on July 30, 2007 an immediate neighboring landowner, the Bricklemeyers, filed a Complaint with the DEP because their water supply had been adversely impacted and asserted that it was related to the recent drilling activity and the possibility that the casing for Stewart Well #8 had been compromised. Attached hereto as Exhibit "B" is a copy of said Complaint.
12. At or about the same time the Department of Environmental Protection official, Mark Keil, who was investigating the July 30, 2010 incident on behalf of the DEP, resigned his position and was immediately hired by the Defendant Range Resources.
13. The impacted landowners, the Brickmeyers, were relocated for a period of time, provided with an alternative water source and filtering equipment
14. Despite the fact that Plaintiffs conducted two file reviews at the DEP, no documentation regarding the investigation and cause of the Brickmeyer's water contamination and response by the Defendant Range Resources, if any, was ever placed in the public files
15. Upon information and belief many neighboring landowners have and are provided with an alternative potable water source by Defendant Range Resources due to issues of water

contamination and suspected contamination.

16. In June 2009, Plaintiffs conducted testing of their well water and discovered the presence of acrylonitrile and styrene. The acrylonitrile was above regulatory limits. Acrylonitrile, a man-made chemical, is believed to be part of the liner for the water impoundment and is also connected with the drilling activity as a chemical utilized to reduce friction. Acrylonitrile is considered a probable human carcinogen and the exposure route is both oral and inhalational. It can affect the central nervous system and cause birth and reproductive effects.

17. As a result of the aforementioned water testing and contamination, Plaintiffs, at considerable expense, have been paying for an alternative water supply for both cooking, drinking and bathing. Despite repeated requests that Defendant Range Resources provide this alternative water supply and that the DEP require Defendant Range Resources to provide same, Defendant Range Resources has heretofore refused and the DEP has not required them to provide potable water to Plaintiffs.

18. Additional water testing of neighboring wells and an adjacent stream also resulted in findings of acrylonitrile above regulatory limits and trace findings of other volatile organic compounds. Testing results were shared with the DEP with permission of the property owners. (A summary of testing results prepared by Plaintiffs' expert and shared with the DEP is attached hereto as Exhibit "C")

19. Plaintiffs have requested that the DEP do further and comprehensive testing to fully evaluate and identify the source and cause for the multiple findings of acrylonitrile contamination, a chemical known to be used in the fracking process, and other unusual chlorinated and non-chlorinated volatile organic compounds.

20. The DEP's testing has refused to take Plaintiffs' Complaint seriously and at one point

even suggested that the acrylonitrile was coming from Plaintiffs' well cover; this despite the fact that not all impacted property owners have the same well cover

21. Rather than testing the involved residences in which the acrylonitrile has been found, shockingly the DEP entrusted the potentially responsible party, Defendant Range Resources, to conduct its own testing, which was done on completely different residences and wells.

22. In addition to the water contamination aforementioned, Plaintiffs have had to endure tremendous noise, constant traffic on the road next to, across from and behind their property (installed without any notification to them), inadequate fencing of the impoundment and other hazardous conditions that pose dangers to their children and pets

23. Plaintiffs have also had to endure the release of noxious gas into the air by Defendant Range Resources.

24. On June 28, 2009, by way of example, a valve malfunctioned at Stewart Well #8, spraying "drip gas" into the air such that Plaintiffs suffered severe headaches and had to remove their children from the home.

25. In addition to the aforementioned adverse conditions caused by Defendant Range Resources, Defendant Laurel Mountain Midstream's Dew Point Control Facility has caused air contamination issues such that the noxious gasses are chronically released during their industrial processes and /or as a result of equipment malfunctions.

26. The odors and toxic substances that are released from Defendant Laurel Mountain Midstream's facility cause Plaintiffs to suffer from burning eyes, throat irritation and severe headaches.

27. Additionally Defendant Laurel Mountain Midstream has severe noise problems that disrupt the Plaintiffs' sleep and interfere with their normal daily living activities

28. Despite constant complaints to Defendant Laurel Mountain Midstream, the situation has not abated such that their conduct is deemed deliberate, reckless, intentional, and indifferent.

29. On April 16, 2010, Defendant Laurel Mountain Midstream had an unauthorized release, of gas and/or hazardous substances into the air. This release lasted 75 minutes during a lightning storm. Despite the fact that the "800 number" on the fence of the facility was called, the Defendant did not dispatch anyone or contact Plaintiffs to explain the incident and/or to evacuate them to safety.

30. Defendant Mark West Group also causes the release of toxic substances and noxious odors which interfere with Plaintiffs' use and enjoyment of their property.

31. On October 20, 2009, there was a release of gas from the Mark West facility for ninety minutes and Plaintiffs were not contacted and/or evacuated to safety.

32. On December 9, 2009, the Mark West Stewart Compressor Station had a fire at their facility and again Plaintiffs were not notified nor evacuated in this hazardous situation.

33. Due to the noise, traffic and chronic odors, hazardous substances being discharged in, on and around their home by all three Defendants, Plaintiffs do not enjoy any type of quality of life in their home and on their property. To the contrary, Plaintiffs fear for their health and lives of their young children.

34. Despite efforts to get the private Defendants to cease and desist from their unsafe and disruptive practices that interfere with Plaintiffs' rights as citizens and landowners, the adverse situation continues.

35. Despite efforts to get Defendant DEP to enforce their rights as citizens and homeowners not to have their environment polluted and health threatened, the DEP has not acted diligently and proactively to protect Plaintiffs and the Environment.

36. As a result of the aforementioned harms and violations, Plaintiffs' counsel seeks to file a Complaint against the Defendants.

37. To the degree that Plaintiffs seeks to file intentional tort theories of recovery, Plaintiffs are required to plead that the Defendant acted intentionally, namely, either acted for the purpose of causing harm, or knew that harm is resulting or is substantially certain to result from his conduct.

38. To satisfy pleading requirements Plaintiffs need to obtain further information regarding the water and air contamination, equipment malfunctions and nuisance complaints that have been made to and or against the Defendants.

39. Plaintiffs further seek Pre-Complaint discovery to obtain documents from Defendants and/or to depose representative of Defendants with knowledge of the adverse incidents --fire and gas releases--aforementioned.

40. Plaintiffs are hampered in drafting a sufficient and specific Complaint since necessary information is in Defendants sole possession and control

41. Plaintiffs' counsel sent an information request to Defendant Range Resources for information to which she was entitled as a Lessor, on January 21, 2010

42. Defendant Range refused to provide said information despite being reminded and also did not agree to arbitrate regarding its failure to provide same. The letter to Attorney Richard Hosking, dated January 21, 2010, which went unanswered, is attached hereto as Exhibit "D"

43. Plaintiffs conducted two file reviews at the Department of Environmental Protection in Pittsburgh but relevant information was missing from the public files

44. On March 4, 2010, Plaintiffs' counsel specifically wrote to counsel for the DEP to request that specific information be available for file review but was told that the DEP did not

have the information readily available and that Defendant Range Resources would have same and that it would need to be gathered. Said information has never been provided Attached hereto, as Exhibit "E" is the letter to DEP counsel requesting said information.

45. Without all the requested information, Plaintiffs are unable to fully investigate and draft a legally sufficient complaint, this creating the unnecessary risk of future unexpected amendments to the Complaint based upon newly discovered facts.

46. The following records are needed from Defendant Range Resources to draft and file a sufficient Complaint

- a) a comprehensive listing of all chemicals used by Defendant in its fracking process and operation which potentially link Defendant as the source of the acrylonitrile and volatile organic compounds found in Plaintiffs' water and neighbors water (Plaintiffs are willing and agreeable to execute a confidentiality/non disclosure agreement if same is necessary to protect trade secret or other business issues).
- b) Casing records on Stewart Well # 8 and Defendants response to the DEP incident report of 7/30/2007 (Exhibit "B"), including any and all DEP related documents, by then neighboring landowner Jill Brickmeyer
- c) Any and all complaints of water or air contamination related to any Stewart Wells-Wells #s 1, 4, 6 and 8- that were made to the Defendant and DEP, and any investigations of same.
- d) Any and all reports or investigations of equipments malfunctions or spills near to, at, and or around Stewart Wells #s 1, 4, 6 and 8
- e) Any and all reports or investigations of defects in the liner or contamination from the Stewart Impoundment, immediately adjoining Plaintiffs' property.

- f) Any and all environmental testing done on properties neighboring Stewart Wells # 1, 4, 6 and 8.
- g) Any and all pre-drill and post-drill testing of properties neighboring Stewart Wells # 1, 4, 6 and 8
- h) A list of all homes in the area of the Stewart Wells receiving potable water deliveries which are being provided and/or paid for by the Defendant due to water quality concerns, investigations and complaints.
- i) All other documents to which Plaintiffs are entitled as a Lessor and which have previously been requested by letters dated January 21, 2010 and March 4, 2010 (Exhibits "D" & "E").

47. The following records from Defendant Laurel Mountain Midstream related to its Laurel Mountain Midstream Dew Point Control Facility, neighboring Plaintiffs' property are needed for Plaintiffs to draft and file a sufficient Complaint

- a) Any and all reports and investigation of unusual gas releases from the Defendant facility, particularly the release dated April 16, 2010
- b) Any and all reports of equipment malfunctions that resulted in gas releases, at, or around the Defendant's subject facility
- c) All complaints by neighbors regarding excess noise, lighting, odors or traffic from the aforementioned and subject facility and response or investigation of said complaints.
- d) All air testing and sound testing done at or around the subject facility or on properties of neighbors to the subject facility.
- e) All computerized system warnings from the date of start-up to the present that indicate that gas needs to be vented or otherwise released in order to avoid hazardous

conditions and/or an explosion

f) All zoning and permitting applications that were filed before the subject facility was built

48. The following records from Mark West Energy Group regarding the Stewart Compressor Station are needed for Plaintiffs to draft and file a sufficient Complaint

a) Any and all reports and investigation of unusual gas releases from the subject Defendant facility, particularly the release dated October 20, 2009.

b) Any and all reports of equipment malfunctions that resulted in gas releases, at or around the subject Defendant facility.

c) Any and all computerized system warnings from the date of start-up to the present that indicate that gas needs to be vented or otherwise released in order to avoid hazardous conditions and/or an explosion

d) All complaints by neighbors regarding excess noise, lighting, odors or traffic from the aforementioned subject facility and response or investigations of complaints

e) All air testing and sound testing done at or around the facility or on properties of neighbors to the subject facility.

f) All zoning and permitting applications that were filed before the subject facility was built

g) All investigations as to the cause of the fire at the Stewart Compressor Station dated December 9, 2009 and reports made to administrative agencies and/or Washington County.

49. The following records from the Department of Environmental Protection are needed for Plaintiff to draft and file a sufficient Complaint

- a) Any and all investigative information and complaints in its possession and/or control regarding water contamination and air contamination from Range Resources Stewart Wells # 1, 4, 6 and 8,
 - b) Any and all investigative information and complaints in its possession and/ or control regarding air releases by the Mark West Energy Group's Stewart Compressor Station
 - c) Any and all investigative information and complaints in its possession and/ or control regarding air releases by Laurel Mountain Midstream Dew Point Control Facility.
 - d). Any and all pre-drill and post-drill testing of Stewart Well #1, 4, 6, 8
 - e) Complete investigative file regarding Complaint #230257, dated 7/30/2007.
50. Defendants have exclusive control, custody and possession of the subject documents Plaintiff needs these documents to file a more specific Complaint
51. Therefore, Plaintiffs seek leave to conduct Pre-Complaint discovery, seeking the documents and records listed above.
52. Without the requisite information, Plaintiffs are unable to draft and file a sufficient Complaint.
53. The Pennsylvania Rules of Civil Procedure provides a two-prong test for Pre-Complaint discovery: (1) the information sought must be material and necessary to the filing of the complaint, and (2) the discovery will not cause unreasonable annoyance, embarrassment, oppression, burden or expense to any person or party Pa. R.C.P. 4003.8 with Explanatory Comment
54. In this case, the discovery requested is material and necessary to Plaintiffs' case, and it will allow Plaintiffs to draft and serve a sufficient Complaint

55. Plaintiffs will be unfairly prejudiced without the discovery, which is needed to draft and serve a sufficient Complaint.

56. Further, Plaintiffs' request will not cause unreasonably burden, annoyance, embarrassment, oppression or expense.

57. Plaintiffs will require sufficient time to complete the requested discovery and to draft and file a Complaint.

58. Based upon all of the foregoing, Plaintiffs seek an Order staying all proceedings including, but not limited to, the issuance and/or enforcement of Rules to File a Complaint and granting leave to Plaintiffs to obtain the documents identified in paragraph 46-49 of this Motion so that Plaintiffs may draft and file a sufficient Complaint.

WHEREFORE, Plaintiffs respectfully request this Honorable Court grant the Motion and enter the proposed Order, attached hereto

Respectfully submitted,
VILLARI, BRANDES & KLINE, P.C.

Dated: 5/26/10

By



Peter M. Villari, Esquire
Robert N. Wilkey, Esquire
Attorneys for Plaintiffs

VILLARI, BRANDES & KLINE, P.C.

BY: Peter M. Villari, Esquire
Robert N. Wilkey, Esquire
Attorney I.D. #26875 & #92443
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428
(610) 729-2900

Attorneys for Plaintiffs

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STEPHANIE HOLLOWICH AND
CHRIS HALLOWICH, H/W
179 Avella Road
Hickory, PA 15340

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Jury Trial Demanded

RANGE RESOURCES CORPORATION
380 Southpointe Boulevard
Canonsburg, PA 15317

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MIDSTREAM
1550 Coraopolis Heights Road, 2nd Floor
Moon Township, PA 15108

-and-

MARKWEST ENERGY PARTNERS, L.P.
MARKWEST ENERGY GROUP, L.L.C
100 Plaza Drive, Suite 102
P O Box 279
Atlasburg, PA 15004

-and-

PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION
400 Waterfront Drive
Pittsburgh, PA 15222-4745

Defendants

PRAECIPE TO ISSUE WRIT OF SUMMONS


TO THE PROTHONOTARY:

Please issue Writ of Summons in Civil Action upon the above-named Defendants.

Respectfully submitted,

VILLARI, BRANDES & KLINE, P.C.

Dated: 5/25/10

By: 
Peter M. Villari, Esquire
Robert N. Wilkey, Esquire
Attorneys for Plaintiffs

WRIT OF SUMMONS

TO THE ABOVE-NAMED DEFENDANTS.

*YOU ARE NOTIFIED THAT THE ABOVE-NAMED PLAINTIFFS HAVE COMMENCED
AN ACTION AGAINST YOU*

Dated: _____

By _____
Prothonotary

Pennsylvania Department of Environmental Protection
Confidential Investigation Report

CTS00111
Page 1 of 1

Complaint Information

EP Sw Rgnl Off Pittsburgh

Complnt Id:	230257	Related Complnt Id:	None
Municipality:	Mount Pleasant Twp	County:	Washington
Entered By	KIMBERLY A GRAZIER	Confidential(Y/N):	Y
Source:	Phone Call	ER Related (Y/N)	N After Hours Ind (Y/N) N
Date Received	07/30/2007	Date Acknowledged:	-
Abbrv Description:	GAS WELL DRILLED BEHIND HOUSE		
Long Description:	COMPANY DRILLED GAS WELL BEHIND HOUSE SPRING IS CONTAMINATED. HOUSE IS UNLIVABLE THERE IS NO WATER & THE SMELL IS REALLY BAD HE IS TRYING TO SELL HOUSE & REALTOR CANNOT SHOW HOUSE BECAUSE OF THE PROBLEM STAYING @ RAMADA INN, SO LEFT CELL PHONE NUMBER WANTS TO MEET THE INSPECTOR OUT THERE AT THE SITE COMPANY NAME IS GREAT LAKES "SOMETHING"		

Site Location: -

Responsible Party Information

Name:	-	Work Phone:	-	Ext	-
Home Phone:	-				
Company Name:	-				
Address:	-	Mobile Phone	-		
		Permit#	-		
Municipality:		County:	-		

Response Information

Priority:	3		
Program:	Oil & Gas		
Complaint Type:	Leaking Gas		
Date Resp Assigned:	07/30/2007		
Date Response Due:	09/10/2007		
Date First Response:	-		
Date Resolved:	-		
Date Referred:	-		
Referred To	-		
Comments:	-		
Inspector:	MARK W KIEL	Supervisor:	ALAN J EICHLER

Investigation Information

Date Investn Assigned:	07/30/2007	Date Investigated:	-	Type	Site Visit
Inspector:	MARK W KIEL	Violation(Y/N)	No		
eFACTS Inspection Id:		Investigation Id.	238490		
Investigation Description:					

*** End of Report ***

Water Contamination Testing

Property Owner	Test Date	Testing Facility	Contaminates Found	Result Amt	VOC's	Result Amt	Chapter 93 Human Health Criteria	Chapter 250 Standards residential used aquifer
Hallowich Creek	04/01/19	Microbac Laboratories Inc	Alkalinity Manganese Sodium	296 mg/L 11 mg/L 31.4 mg/L				50 µg/l
	05/12/09	PA DEP	Manganese Iron Alkalinity	179.00 UG/L 662.0 UG/L 297.2 mg/L			- - -	50 µg/l 300 µg/l -
	06/01/09	Robert Hunt			Acrylonitrile Styrene	1.48 UG/L Trace	0.051 µg/l -	0.63 µg/l 100 µg/l
	06/09/09	PA DEP	Manganese	166.00 UG/L			-	50 µg/l
		*at water impoundment *et water impoundment			Acetone Ethylene Glycol	3.43 UG/L 1.1 MG/L	3500 µg/l -	3700 µg/l
	06/09/09	RT Lab	Manganese Lead	0.18 0.015			- N/A	50 µg/l 5 µg/l
	06/18/09	Robert Hunt			Toluene Ethyl benzene	29 UG/L Trace	1300 µg/l 530 µg/l	1000 µg/l 700 µg/l
	06/20/09	Robert Hunt			Toluene Ethyl benzene	26 UG/L Trace	1300 µg/l 530 µg/l	1000 µg/l 700 µg/l
	06/20/09	Robert Hunt			Ethyl benzene	Trace	530 µg/l	700 µg/l
	06/22/09	Robert Hunt			Ethyl benzene	Trace	530 µg/l	700 µg/l
	06/24/09	Robert Hunt			Ethyl benzene	Trace	530 µg/l	700 µg/l
	06/24/09	Robert Hunt			Toluene	21 UG/L	1300 µg/l	1000 µg/l
	06/26/09	Robert Hunt			Ethyl benzene	Trace	530 µg/l	700 µg/l
	08/10/09	Robert Hunt			Tetrachloroethene Ethyl benzene	Trace Trace	530 µg/l 530 µg/l	700 µg/l 700 µg/l
	08/12/09	Robert Hunt			Ethyl benzene	Trace	530 µg/l	700 µg/l
	12/3/09	Robert Hunt			Acrylonitrile	1.48 UG/L	0.051 µg/l	0.63 µg/l
	12/3/09	Robert Hunt			Acrylonitrile	0.818 UG/L	0.051 µg/l	0.63 µg/l
Note: During the June and August testing, we had a large amount of rain								
	09/28/09	Robert Hunt			Acrylonitrile Chloroform	1.6 UG/L 1.91 UG/l	0.051 µg/l 5.7 µg/l	0.63 µg/l 100 µg/l
Skirpan	09/26/09	Robert Hunt			Chloroform	806 UG/L	5.7 µg/l	100 µg/l
Smitsky	09/26/09	Robert Hunt			Acrylonitrile	892 UG/L	0.051 µg/l	0.63 µg/l
Smith	09/26/09	Robert Hunt			Trichlorofluoromethene	713 UG/L		2000 µg/l
McQuillan	09/26/09	Robert Hunt			Acrylonitrile	727 UG/L	0.051 µg/l	0.63 µg/l
Mitchell								

Deanna K. Tanner, Esquire
Member of PA Bar
e-mail: dtanner@villarilaw.com

January 21, 2010

Richard W Hosking
K&L Gates LLP
Henry W Oliver Building
535 Smithfield Street
Pittsburgh, Pa 15222

Re Stephanie Hallowich Water Well Contamination

Dear Mr Hosking

Based upon your last email to me, it is apparent to me that you and your client do not take my clients' concerns regarding water contamination and other nuisance conditions from Range with appropriate seriousness. Threatening me with sanctions for an allegedly frivolous law suit is not an especially effective tactic that will be beneficial to your client. I can only assure you that in my twenty years of practicing law, I have yet to ever file a suit deemed frivolous by any Court. That said, I can only encourage you to reconsider your responses to me about my clients' legitimate concerns and what Range might do to avoid litigation over same.

At this time, I am also writing to you to request all documents from your client to which my client is legally entitled to receive as a Lessor, including but not limited to those which are to be provided under sections 6.2 (Soil and Erosion and Sedimentation and Control Plans), 15.6 (PPC Plan), 15.9 (all control and Disposal Plans and approvals thereof), 17.1 (well records logs and reports including all data), 18.1 (meter charts on production of each well and statements by third parties regarding sale or transport of products) and 25.1 (all agreements and contracts concerning the sale of products) of the Nancy Stewart Lease Agreements, dated March 1, 2002. I also want to see casing records, and Range's response to the DEP incident report dated 07/30/2007 by then neighboring landowner, Jill Bricklemeyer and any other complaints of water contamination to assure that prudent and legal drilling operations are being conducted as set forth in Section 15 of the lease.

Mr Richard Hosking
January 21, 2010
Page 2

Last but not least, I am requesting a comprehensive listing of all chemicals used in your clients' fracking process and operations to determine whether or not your company is the source of the acrylonitrile and VOCs being found in my clients' and neighboring clients' water. I am willing to execute confidentiality/non-disclosure agreements if same is necessary as we have absolutely no interest in this information for other than a water contamination purpose.

I trust you realize that if you do not comply with my reasonable requests for information, I will proceed to file suit and obtain such information and discovery through a Court Order. Irrespective of the DEP's opinion on water contamination, an opinion that unfortunately is sometimes erroneous, I and my experts continue to believe that Range is the source for the contamination. I am willing to review all the documents you provide to better reach an understanding of your client's operations and their impacts on my clients' properties.

If after consideration you decide that you might like to discuss more amicable ways of resolving my clients' concerns, please contact me. Please note, however, that I will be away on vacation next week. Please feel free to speak to Robert Wilkey, Esquire, until my return.

Very truly yours,

VILLARI, BRANDES & KLINE, P C

Deanna Kaplan Tanner, Esquire

DKT/jab

cc Ms Stephanie Hallowich

Deanna K. Tanner, Esquire
Member of PA Bar
e-mail: dtanner@villanilaw.com

March 4, 2010

VIA FAX NO. 412-442-4267

Ms Gail Myers
DEP Southwest Regional Office
400 Waterfront Drive
Pittsburgh, PA 15222

Re Stephanie Hallowich and neighboring properties

Dear Ms Meyers:

I have been advised that there has been a release of wastewater from the Lowry impoundment in Hopewell Township. Newspaper reports reflect that the wastewater from the impoundment will be drained so that the liner can be inspected.

Ms Hallowich has seen recent activity around the Stewart impoundment that borders her property and is reasonably concerned that this wastewater not be pumped into the Stewart impoundment that is purported to only contain and be permitted to contain fresh water.

I note that both Range's and DEP's testing of the Stewart impoundment indicated that there was acetone in this impoundment. My client remains fearful that there are holes in the liner at the Stewart impoundment, that its true contents are uncertain in light of the acetone finding, and that additional waters that are wastewaters are planned to be pumped into this impoundment. Our experts have previously informed the DEP that this impoundment may be a source of impact to the drinking water and our concern remains in that regard.

Given the recent release from the Lowry impoundment, I continue to urge the DEP to investigate the Stewart impoundment's integrity and contents and to assure that no unpermitted and polluting substances are or were put into the Stewart impoundment.

Ms. Gail Myers
March 4, 2010
Page 2

I intend to send you a letter within a week in answer to your questions about our sampling results. In the interim, I want to make you aware that my client has asked for a file review. I would specifically like to request all pre-drill and post-drill testing of all Stewart wells (Stewart Well #1, Permit No 125-22619, Stewart Well #4, Permit No 125-22641, Stewart Well #6, Permit No 125-22688, and Stewart Well #8, Permit No 125-22669) be made available. I would also like the complete investigative file regarding Complaint #230257, dated 7/30/2007, made available to her. I am told that in prior file reviews that materials in this regard were either unavailable or missing.

I will close by once again urging the DEP to protect the citizens, conduct its own testing, including the contents of the Stewart impoundment and integrity of the liner of same, as well as installation of monitoring wells. If you do elect to do sampling, I would like to request that I be notified such that I will have the opportunity to arrange for split sampling should we so desire.

Thank you for your assistance in this matter.

Very truly yours,

VILLARI, BRANDES & KLINE, P C

Deanna Kaplan Tanner, Esquire

DKT/jab

cc Ms Stephanie Hallowich

Supreme Court of Pennsylvania

Court of Common Pleas Civil Cover Sheet

Washington County

For Prothonotary Use Only

Docket No

2010-3954

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

Commencement of Action

- ☐ Complaint ☒ Writ of Summons ☐ Petition ☐ Notice of Appeal
☐ Transfer from Another Jurisdiction ☐ Declaration of Taking

Lead Plaintiff's Name

Stephanie Hallowich

Lead Defendant's Name

Range Resources Corp.

☐ (Check here if you are a Self-Represented (Pro Se) litigant)

Name of Plaintiff/Appellant's Attorney

Peter Villari, Esq. & Robert Wilkey, Esq.

Are money damages requested? ☒ Yes ☐ No

Dollar Amount Requested
(Check one)

☒ within arbitration limits
☐ outside arbitration limits

Is this a Class Action Suit? ☐ Yes ☒ No

Nature of the Case

Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important

TORT (do not include Mass Tort)

- ☐ Intentional
☐ Malicious Prosecution
☐ Motor Vehicle
☐ Nuisance
☐ Premises Liability
☐ Product Liability (does not include mass tort)
☐ Slander/Label/Defamation
☒ Other
Environmental

MASS TORT

- ☐ Asbestos
☐ Tobacco
☐ Toxic Tort - DES
☐ Toxic Tort - Implant
☐ Toxic Waste
☐ Other

PROFESSIONAL LIABILITY

- ☐ Dental
☐ Legal
☐ Medical
☐ Other Professional

CONTRACT (do not include Judgments)

- ☐ Buyer Plaintiff
☐ Debt Collection Credit Card
☐ Debt Collection Other

☐ Employment Dispute
Discrimination
☐ Employment Dispute Other

☐ Other

REAL PROPERTY

- ☐ Ejectment
☐ Eminent Domain/Condemnation
☐ Ground Rent
☐ Landlord/Tenant Dispute
☐ Mortgage Foreclosure
☐ Partition
☐ Quiet Title

☐ Other

CIVIL APPEALS

- Administrative Agencies
☐ Board of Assessment
☐ Board of Elections
☐ Dept of Transportation
☐ Zoning Board
☐ Statutory Appeal Other

Judicial Appeals

- ☐ MDJ - Landlord/Tenant
☐ MDJ - Money Judgment
☐ Other

MISCELLANEOUS

- ☐ Common Law/Statutory Arbitration
☐ Declaratory Judgment
☐ Mandamus
☐ Non-Domestic Relations
Restraining Order
☐ Quo Warranto
☐ Replevin

☐ Other

VILLARI, BRANDES & KLINE, P.C.

BY Peter M. Villari, Esquire
Robert N. Wilkey, Esquire
Attorney I D #26875 & #92443
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428
(610) 729-2900

Attorneys for Plaintiffs

**IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PA
PREMISES LIABILITY ACTION - CIVIL CASE**

STEPHANIE HOLLOWICH AND
CHRIS HALLOWICH, H/W
179 Avella Road
Hickory, PA 15340

Plaintiffs

v

Docket No. 2010- 3954

Term, 2010

Jury Trial Demanded

RANGE RESOURCES CORPORATION
380 Southpointe Boulevard
Canonsburg, PA 15317

-and-

WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM

1550 Coraopolis Heights Road, 2nd Floor
Moon Township, PA 15108

-and-

MARKWEST ENERGY PARTNERS, L.P.
MARKWEST ENERGY GROUP, L.L.C.
100 Plaza Drive, Suite 102

P. O. Box 279

Atlasburg, PA 15004

-and-

PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

400 Waterfront Drive

Pittsburgh, PA 15222-4745

Defendants

PRAECIPE TO ISSUE WRIT OF SUMMONS


TO THE PROTHONOTARY:

Please issue Writ of Summons in Civil Action upon the above-named Defendants

Respectfully submitted,

VILLARI, BRANDES & KLINE, P.C.

Dated: 5/25/11

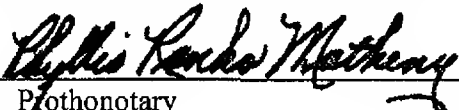
By: 
Peter M. Villari, Esquire
Robert N. Wilkey, Esquire
Attorneys for Plaintiffs

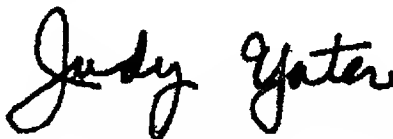
WRIT OF SUMMONS

TO THE ABOVE-NAMED DEFENDANTS

*YOU ARE NOTIFIED THAT THE ABOVE-NAMED PLAINTIFFS HAVE COMMENCED
AN ACTION AGAINST YOU*

Dated: 5-27-10

By: 
Prothonotary



PHYLLIS RANKO MATHENY, PROTHONOTARY
My Term Expires First Monday in January 2012

FILED

2010 MAY 27 PM 12:38

FBI
WASHINGTON
PA

AB

4581
4

95

IN THE COURT OF COMMON PLEAS OF
WASHINGTON COUNTY, PENNSYLVANIA

STEPHANIE HOLLOWICH AND
CHRIS HOLLOWICH, H/W,
Plaintiffs

v

Docket No 2010-3954

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P., MARKWEST ENERGY
GROUP, L L C , and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

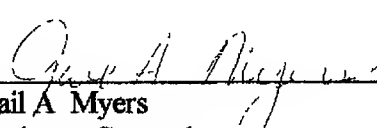
Defendants

NOTICE OF APPEARANCE

Please enter my appearance as counsel in the above matter on behalf of the
Commonwealth of Pennsylvania, Department of Environmental Protection I am authorized to
accept service on behalf of the Department in this matter

2010 JUN 18 AM 10:59

WASH


Gail A Myers
Assistant Counsel
PA ID No 48831

Office of Chief Counsel
400 Waterfront Drive
Pittsburgh, PA 15222-4745
412-442-4262

Date June 15, 2010

c' Peter M Villari, Esquire, Esquire
Robert N Wilkey, Esquire
Robert L Burns, Esquire
Richard W Hosking Esquire

IN THE COURT OF COMMON PLEAS OF
WASHINGTON COUNTY, PENNSYLVANIA

STEPHANIE HOLLOWICH AND
CHRIS HOLLOWICH, H/W,
Plaintiffs

v

Docket No 2010-3954

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L L C , and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

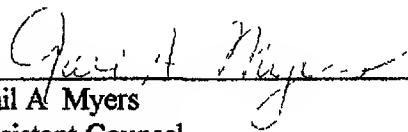
CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing Notice of Appearance upon the persons and in the manner indicated below, which service satisfies the requirements of Pa R A P 121

Service by first class mail addressed as follows

Peter M Villari, Esquire
Villari, Brandes & Kline, P C
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428
(610) 729-2900

Robert N Wilkey, Esquire
Villari, Brandes & Kline, P C
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428
(610) 729-2900



Gail A Myers
Assistant Counsel
PA ID No 48831
Office of Chief Counsel
400 Waterfront Drive
Pittsburgh, PA 15222-4745
412-442-4262

Date June 15, 2010

c Robert L Burns, Esquire
Richard W Hosking Esquire

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
PREMISES LIABILITY ACTION – CIVIL CASE

STEPHANIE HOLLOWICH AND CHRIS
HOLLOWICH, H/W,

Plaintiffs,

v.

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P , MARKWEST ENERGY
GROUP, L L C ; and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

Docket No 2010-3954

Filed on behalf of
Williams Gas/Laurel Mountain Midstream

Counsel of Record for this Party

Kathy K. Condo, Esq.
PA I D No 34910

Babst, Calland, Clements & Zomnir, P C
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222
(412) 394-5400

FILED
10 JUN 21 AM 11:40
CLERK OF COURT
WASHINGTON COUNTY PA

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
PREMISES LIABILITY ACTION – CIVIL CASE

STEPHANIE HOLLOWICH AND CHRIS)
HOLLOWICH, H/W,)

Plaintiffs,)

v)

Docket No 2010-3954

RANGE RESOURCES CORPORATION,)
WILLIAMS GAS/LAUREL MOUNTAIN)
MIDSTREAM, MARKWEST ENERGY)
PARTNERS, L P ; MARKWEST ENERGY)
GROUP, L L C , and PENNSYLVANIA)
DEPARTMENT OF ENVIRONMENTAL)
PROTECTION,)

Defendants)

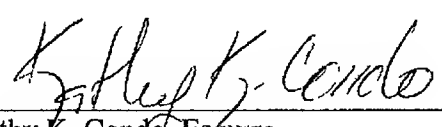
NOTICE OF APPEARANCE

Please enter my appearance in the above matter on behalf of Defendant, Williams

Gas/Laurel Mountain Midstream

BABST, CALLAND,
CLEMENTS & ZOMNIR, P C

Date June 18, 2010


Kathy K. Condo, Esquire

PA ID #34910

Two Gateway Center, 8th Floor
Pittsburgh, PA 15222
(412) 394-5400

*Counsel for Defendant, Williams Gas/
Laurel Mountain Midstream*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Notice of Appearance** was served on the following individuals via first-class mail this 18th day of June, 2010


Peter M. Villari, Esquire
Villari, Brandes & Kline, P C.
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428

Gail A. Myers, Esquire
DEP-Office of Chief Counsel
400 Waterfront Drive
Pittsburgh, PA 15222-4745

Robert L. Burns, Jr., Esquire
Buchanan, Ingersoll & Rooney, P C
One Oxford Centre
301 Grant Street, 20th Floor
Pittsburgh, PA 15219

Richard W. Hosking, Esquire
K&L Gates, LLP
Henry W. Oliver Building
535 Smithfield Street
Pittsburgh, PA 15222-2312

BABST, CALLAND,
CLEMENTS & ZOMNIR, P.C.



Kathy K. Condo, Esquire
PA I.D. #34940

71

**IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PA
PREMISES LIABILITY ACTION – CIVIL CASE**

STEPHANIE HOLLOWICH AND CHRIS
HALLOWICH,

Docket No 2010-3954

Plaintiffs,

v.

**NOTICE OF APPEARANCE ON
BEHALF OF MARK WEST ENERGY
PARTNERS, L.P. AND MARKWEST
ENERGY GROUP, L.L.C.**

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARK WEST ENERGY
PARTNERS, L P , MARK WEST ENERGY
GROUP, L L.C , PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants.

NOTICE OF APPEARANCE

Kindly enter the appearance of Erin McDowell on behalf of Mark West Energy
Partners, L P. and Mark West Energy Group, L.L C

Respectfully submitted,



Erin Windle McDowell, Esq.

PAID No 93684

Eckert Seamans Cherin & Mellott, LLC

44TH Floor, 600 Grant Street

Pittsburgh, PA 15219

Telephone 412 566 1999

Facsimile: 412 566.6099

2010 JUN 25 PM 2:56

WV
17

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice of Appearance on Behalf of Mark West Energy Partners, L.P and Mark West Energy Group, L.L.C. has been served upon the following counsel of record by First Class United States Mail, postage prepaid, this 25th day of June, 2010, as follows:

Peter M. Villari, Esquire
Robert N. Wilkey, Esquire
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428

and

Kathy Condo-Cartis, Esquire
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222

and

Gail Meyers, Esquire
400 Waterfront Drive
Pittsburgh, PA 15222



Erin W. McDowell, Esq
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219

*Attorneys for Defendant,
Mark West Energy Partners, L.P. and
Mark West Energy Group, L.L.C.*

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY,
PENNSYLVANIA

STEPHANIE HOLLOWICH AND
CHRIS HALLOWICH, H/W
179 Avella Road
Hickory, PA 15340,

Plaintiffs,

v

RANGE RESOURCES CORPORATION
380 Southpointe Boulevard
Canonsburg, PA 15317

-and-

WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM
1550 Coraopolis Heights Road, 2nd Floor
Moon Township, PA 15108

-and-

MARKWEST ENERGY PARTNERS, L P
MARKWEST ENERGY GROUP, L L C
100 Plaza Drive, Suite 102
P O Box 279
Atlasburg, PA 15004

-and-

PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION
400 Waterfront Drive
Pittsburgh, PA 15222-4745,

Defendants

CIVIL DIVISION

No 2010-3954

ENTRY OF APPEARANCE

Filed on behalf of Defendant Range
Resources Corporation

Counsel of Record for this Party

Richard W Hosking
Pa I D #32982

James C Swetz
Pa I D #208717

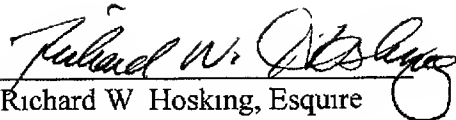
K&L GATES LLP
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222-2613
412/355-6500
412/355-6501
Firm I D #148

WASHINGTON COUNTY

2010 JUL -2 AM 10:42

PA

Dated July 1, 2010

By 
Richard W Hosking, Esquire
Pa ID No 32982
K&L GATES, LLP
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222-2613

Attorney for Range Resources

CERTIFICATE OF SERVICE

I, James Swetz, hereby certify on this 1st day of July, 2010, that a true and correct copy of the foregoing Praecipe for Entry of Appearance was served on the following counsel by first class United States Mail, postage pre-paid

Peter M Villari, Esq
Robert N Wilkey, Esq.
Villari, Brandes & Kline, P C
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428
Attorneys for Plaintiffs



James C Swetz

9

**IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY,
PENNSYLVANIA**

STEPHANIE HOLLOWICH AND
CHRIS HALLOWICH, H/W
179 Avella Road
Hickory, PA 15340,

Plaintiffs,

v

RANGE RESOURCES CORPORATION
380 Southpointe Boulevard
Canonsburg, PA 15317

-and-

WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM
1550 Coraopolis Heights Road, 2nd Floor
Moon Township, PA 15108

-and-

MARKWEST ENERGY PARTNERS, L P
MARKWEST ENERGY GROUP, L L C
100 Plaza Drive, Suite 102
P O Box 279
Atlasburg, PA 15004

-and-

PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION
400 Waterfront Drive
Pittsburgh, PA 15222-4745,

Defendants

) CIVIL DIVISION

) No 2010-3954

) **ENTRY OF APPEARANCE**

) Filed on behalf of Defendant Range
) Resources Corporation

) Counsel of Record for this Party

) Richard W Hosking
) Pa I D #32982

) James C Swetz
) Pa I.D #208717

) K&L GATES LLP
) K&L Gates Center
) 210 Sixth Avenue
) Pittsburgh, PA 15222-2613
) 412/355-6500
) 412/355-6501
) Firm I D #148

Washed

2010 JUL -2 AM 10:42

AA

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

STEPHANIE HOLLOWICH AND
CHRIS HALLOWICH, H/W
179 Avella Road
Hickory, PA 15340,

Plaintiffs,

v.

RANGE RESOURCES CORPORATION
380 Southpointe Boulevard
Canonsburg, PA 15317

-and-

WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM
1550 Coraopolis Heights Road, 2nd Floor
Moon Township, PA 15108

-and-

MARKWEST ENERGY PARTNERS, L P
MARKWEST ENERGY GROUP, L L C
100 Plaza Drive, Suite 102
P.O. Box 279
Atlasburg, PA 15004

-and-

PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION
400 Waterfront Drive
Pittsburgh, PA 15222-4745,

Defendants

CIVIL DIVISION

No 2010-3954

PRAECIPE FOR ENTRY OF APPEARANCE

To The Prothonotary

Kindly enter the appearance of James C Swetz of the law firm K&L Gates LLP on
behalf of Range Resources Corporation ("Range Resources") in the above-captioned matter

Respectfully submitted,

Dated July 1, 2010

By 
James C Swetz, Esquire

Pa ID No 208717

K&L GATES, LLP
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222-2613

Attorney for Range Resources

CERTIFICATE OF SERVICE

I, James Swetz, hereby certify on this 1st day of July, 2010, that a true and correct copy of the foregoing Praecipe for Entry of Appearance was served on the following counsel by first class United States Mail, postage pre-paid

Peter M Villari, Esq
Robert N Wilkey, Esq
Villari, Brandes & Kline, P C
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428
Attorneys for Plaintiffs


James C Swetz

WASHINGTON COUNTY, PENNSYLVANIA
OFFICE OF THE SHERIFF

SAMUEL F. ROMANO
SHERIFF

JAMES B. DALESSANDRO
CHIEF DEPUTY



COURTHOUSE SQUARE
SUITE 303
100 WEST BEAU STREET
WASHINGTON, PA 15301
724-228-6840
FAX 724-223-4719

Sheriff File Number - 10002780

Court Docket # 2010-3954

County of WASHINGTON, Commonwealth of PENNSYLVANIA

2010 JUL 19 AM 9:51

STEPHANIE HALLOWICH & CHRIS HALLOWICH
vs
RANGE RESOURCES CORPORATION, WILLIAMS
GAS/LAUREL MOUNTAIN MIDSTREAM, MARKWEST
ENERGY PARTNERS, L P, MARKWEST ENERGY
GROUP, L L C, PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

Affidavit of Service

WRIT OF SUMMONS & MOTION FOR PRE-
COMPLAINT DISCOVERY

I hereby CERTIFY and RETURN that on 6/8/2010 at 1 20PM at 380 SOUTHPOINTE BOULEVARD, SUITE 300
CANONSBURG, PA 15317 the within WRIT OF SUMMONS & MOTION FOR PRE-COMPLAINT DISCOVERY,
was served on RANGE RESOURCES CORPORATION, the defendant named therein, in the following manner

ALTERNATE PERSON

By delivering to and leaving with CINDY KREBS the RECEPTIONIST to the defendant a true copy thereof, a
person over the age of eighteen Said address was the BUSINESS of the defendant

SERVICE ATTEMPTS

This is the first attempt at service

Fees Received from Attorney DEPUTIES EDUCATION FUND (\$50 00), DEPUTIZING (\$18 00), MILEAGE (\$17 50), MILEAGE (\$20 00),
POSTAGE (\$1 00), FIRST DEFENDANT BASE COST (\$24 50), ADDITIONAL DEFENDANT(S) BASE COST (\$44 00) Total Charges \$175 00

Attorney Name VILLARI, BRANDES & KLINE, P C, 8 TOWER BRIDGE 161 WASHINGTON STREET SUITE 400, CONSHOHOCKEN, PA
19428

Affirmed & Subscribed to before
Me July 16, 2010

JERRY JERICHO, Deputy Sheriff

Notary Public

My commission expires

Samuel F. Romano

Sheriff of Washington County

WASHINGTON COUNTY, PENNSYLVANIA
OFFICE OF THE SHERIFF

SAMUEL F ROMANO
SHERIFF

JAMES B DALESSANDRO
CHIEF DEPUTY



COURTHOUSE SQUARE
SUITE 303
100 WEST BEAU STREET
WASHINGTON, PA 15301
724-228-6840
FAX 724-223-4719

Sheriff File Number – 10002780

Court Docket # **2010-3954**

County of WASHINGTON, Commonwealth of PENNSYLVANIA

STEPHANIE HALLOWICH & CHRIS HALLOWICH
vs
RANGE RESOURCES CORPORATION, WILLIAMS
GAS/LAUREL MOUNTAIN MIDSTREAM, MARKWEST
ENERGY PARTNERS, L P , MARKWEST ENERGY
GROUP, L L C , PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

Affidavit of Service

WRIT OF SUMMONS & MOTION FOR PRE-
COMPLAINT DISCOVERY

I hereby CERTIFY and RETURN that on 6/14/2010 at 9:40AM at 100 PLAZA DRIVE, SUITE 102 ATLASBURG, PA 15004 the within WRIT OF SUMMONS & MOTION FOR PRE-COMPLAINT DISCOVERY, was served on MARKWEST ENERGY PARTNERS, L P , the defendant named therein, in the following manner

ALTERNATE PERSON

By delivering to and leaving with ELAINE DIRE the OFFICE MANAGER to the defendant a true copy thereof, a person over the age of eighteen. Said address was the BUSINESS of the defendant.

SERVICE ATTEMPTS

This is the first attempt at service

Attorney Name VILLARI, BRANDES & KLINE, P C , 8 TOWER BRIDGE 161 WASHINGTON STREET SUITE 400, CONSHOHOCKEN, PA 19428

Affirmed & Subscribed to before
Me July 16, 2010

JAMES STEFAN, Deputy Sheriff

Notary Public

My commission expires

Samuel F Romano

Sheriff of Washington County

WASHINGTON COUNTY, PENNSYLVANIA
OFFICE OF THE SHERIFF

SAMUEL F ROMANO
SHERIFF

JAMES B DALESSANDRO
CHIEF DEPUTY



COURTHOUSE SQUARE
SUITE 303
100 WEST BEAU STREET
WASHINGTON, PA 15301
724-228-6840
FAX 724-223-4719

Sheriff File Number – 10002780

Court Docket # **2010-3954**

County of WASHINGTON, Commonwealth of PENNSYLVANIA

STEPHANIE HALLOWICH & CHRIS HALLOWICH
vs
RANGE RESOURCES CORPORATION, WILLIAMS
GAS/LAUREL MOUNTAIN MIDSTREAM, MARKWEST
ENERGY PARTNERS, L P, MARKWEST ENERGY
GROUP, L L C, PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

Affidavit of Service

WRIT OF SUMMONS & MOTION FOR PRE-
COMPLAINT DISCOVERY

I hereby CERTIFY and RETURN that on 6/14/2010 at 9 40AM at 100 PLAZA DRIVE, SUITE 102 ATLASBURG, PA 15004 the within WRIT OF SUMMONS & MOTION FOR PRE-COMPLAINT DISCOVERY, was served on MARKWEST ENERGY GROUP, L L C, the defendant named therein, in the following manner

ALTERNATE PERSON

By delivering to and leaving with ELAINE DIRE the OFFICE MANAGER to the defendant a true copy thereof, a person over the age of eighteen Said address was the BUSINESS of the defendant

SERVICE ATTEMPTS

This is the first attempt at service

Attorney Name VILLARI, BRANDES & KLINE, P C, 8 TOWER BRIDGE 161 WASHINGTON STREET SUITE 400, CONSHOHOCKEN, PA 19428

Affirmed & Subscribed to before
Me July 16, 2010

JAMES STEFAN, Deputy Sheriff

Notary Public

My commission expires

Samuel F Romano

Sheriff of Washington County

WASHINGTON COUNTY, PENNSYLVANIA
OFFICE OF THE SHERIFF

SAMUEL F ROMANO
SHERIFF

JAMES B DALESSANDRO
CHIEF DEPUTY



COURTHOUSE SQUARE
SUITE 303
100 WEST BEAU STREET
WASHINGTON, PA 15301
724-228-6840
FAX 724-223-4719

Sheriff File Number – 10002780

Court Docket # **2010-3954**

County of WASHINGTON, Commonwealth of PENNSYLVANIA

STEPHANIE HALLOWICH & CHRIS HALLOWICH
vs
RANGE RESOURCES CORPORATION, WILLIAMS
GAS/LAUREL MOUNTAIN MIDSTREAM, MARKWEST
ENERGY PARTNERS, L P, MARKWEST ENERGY
GROUP, L L C, PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

Affidavit of Service

WRIT OF SUMMONS & MOTION FOR PRE-
COMPLAINT DISCOVERY

I hereby CERTIFY and RETURN that on 6/10/2010 at 11 25AM at 400 WATERFRONT DRIVE, PITTSBURGH, PA 15222 the within WRIT OF SUMMONS & MOTION FOR PRE-COMPLAINT DISCOVERY, was served by the Allegheny County Sheriff's Office on PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION, the defendant named therein, in the following manner

ALTERNATE PERSON

By delivering to and leaving with JOANNE LEON the SECRETARY to the defendant a true copy thereof, a person over the age of eighteen Said address was the BUSINESS of the defendant

SERVICE ATTEMPTS

This is the first attempt at service

Attorney Name VILLARI, BRANDES & KLINE, P C, 8 TOWER BRIDGE 161 WASHINGTON STREET SUITE 400, CONSHOHOCKEN, PA 19428

Affirmed & Subscribed to before
Me July 16, 2010

Notary Public

My commission expires _____

Samuel F Romano

Sheriff of Washington County

WASHINGTON COUNTY, PENNSYLVANIA
OFFICE OF THE SHERIFF

SAMUEL F ROMANO
SHERIFF

JAMES B DALESSANDRO
CHIEF DEPUTY



COURTHOUSE SQUARE
SUITE 303
100 WEST BEAU STREET
WASHINGTON, PA 15301
724-228-6840
FAX 724-223-4719

Sheriff File Number – 10002780

Court Docket # 2010-3954

County of WASHINGTON, Commonwealth of PENNSYLVANIA

STEPHANIE HALLOWICH & CHRIS HALLOWICH
vs
RANGE RESOURCES CORPORATION, WILLIAMS
GAS/LAUREL MOUNTAIN MIDSTREAM, MARKWEST
ENERGY PARTNERS, L P, MARKWEST ENERGY
GROUP, L L C, PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

Affidavit of Service

WRIT OF SUMMONS & MOTION FOR PRE-
COMPLAINT DISCOVERY

I hereby CERTIFY and RETURN that on 6/16/2009 at 11 55AM at 1550 CORAOPOLIS HEIGHTS ROAD, 2ND FLOOR MOON TOWNSHIP, PA 15108 the within WRIT OF SUMMONS & MOTION FOR PRE-COMPLAINT DISCOVERY, was served by the Allegheny County Sheriff's Office on WILLIAMS GAS/LAUREL MOUNTAIN MIDSTREAM, the defendant named therein, in the following manner

ALTERNATE PERSON

By delivering to and leaving with JAY IRWIN the PERSON IN CHARGE to the defendant a true copy thereof, a person over the age of eighteen. Said address was the BUSINESS of the defendant.

SERVICE ATTEMPTS

This is the first attempt at service

Attorney Name VILLARI, BRANDES & KLINE, P C, 8 TOWER BRIDGE 161 WASHINGTON STREET SUITE 400, CONSHOHOCKEN, PA 19428

Affirmed & Subscribed to before
Me July 16, 2010

Notary Public

My commission expires _____

Samuel F Romano

Sheriff of Washington County

WASHINGTON COUNTY, PENNSYLVANIA
OFFICE OF THE SHERIFF

SAMUEL F ROMANO
SHERIFF

JAMES B DALESSANDRO
CHIEF DEPUTY



COURTHOUSE SQUARE
SUITE 303
100 WEST BEAU STREET
WASHINGTON, PA 15301
724-228-6840
FAX 724-223-4719

STEPHANIE HALLOWICH & CHRIS HALLOWICH Plaintiff

VS

Case No 2010-3954

RANGE RESOURCES CORPORATION, WILLIAMS GAS/LAUREL MOUNTAIN MIDSTREAM, MARKWEST ENERGY PARTNERS, L P, MARKWEST ENERGY GROUP, L L C, PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION, Defendant

6910

Now, June 3, 2010, I, Sheriff of Washington County, Pennsylvania, do hereby deputize the Sheriff of ALLEGHENY County to serve the within WRIT OF SUMMONS & MOTION FOR PRE-COMPLAINT DISCOVERY upon WILLIAMS GAS/LAUREL MOUNTAIN MIDSTREAM at 1550 CORAOPOLIS HEIGHTS ROAD, 2ND FLOOR, MOON TOWNSHIP, PA 15108

Last day to serve 6-26-10

JAY IRWIN

Advance Cost \$150 00
Check No 2004

Samuel F Romano

Sheriff, Washington County,
Pennsylvania

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF Allegheny

I hereby CERTIFY and RETURN that on the 16 day of June 2010 at 1155 AM PM
I served the within writ of summons upon defendant Williams Gas by delivering to
and leaving with Jay Irwin, Relationship to defendant _____
at 1550 Coraopolis Hts Rd a true copy thereof

RETURN NOT FOUND

I hereby CERTIFY and RETURN that on _____ day of _____ 200__ at _____ AM/PM
service was attempted with due diligence and inquiry for _____ at _____
for the following reason _____ Service was unable to be made

Affirmed & Subscribed to before me

This _____ day of _____ 200__

Notary Public

[Signature]
Deputy Sheriff

[Signature]
Sheriff

WASHINGTON COUNTY, PENNSYLVANIA
OFFICE OF THE SHERIFF

SAMUEL F ROMANO
SHERIFF

JAMES B DALESSANDRO
CHIEF DEPUTY



COURTHOUSE SQUARE
SUITE 303
100 WEST BEAU STREET
WASHINGTON, PA 15301
724-228-6840
FAX 724-223-4719

STEPHANIE HALLOWICH & CHRIS HAILOWICH Plaintiff

VS

Case No 2010-3954

RANGE RESOURCES CORPORATION, WILLIAMS GAS/LAUREL MOUNTAIN MIDSTREAM, MARKWEST ENERGY PARTNERS, L P, MARKWEST ENERGY GROUP, L L C, PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION, Defendant

Now, June 3, 2010, I, Sheriff of Washington County, Pennsylvania, do hereby deputize the Sheriff of ALLEGHENY County to serve the within WRIT OF SUMMONS & MOTION FOR PRE-COMPLAINT DISCOVERY upon PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION at 400 WATERFRONT DRIVE, PITTSBURGH, PA 15222

Last day to serve 6-26-10

Advance Cost \$150 00
Check No 2004

Samuel F Romano
Sheriff, Washington County,
Pennsylvania

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF Allegheny

I hereby CERTIFY and RETURN that on the 10th day of June 2000 at 11:25 AM/PM
I served the within Joanne Lewis (rec) upon defendant Joanne Lewis (rec) by delivering to
and leaving with Joanne Lewis (rec), Relationship to defendant Joanne Lewis (rec)
at Joanne Lewis (rec) a true copy thereof

RETURN NOT FOUND

I hereby CERTIFY and RETURN that on day of 2000 at AM/PM
service was attempted with due diligence and inquiry for at
for the following reason Service was unable to be made

Affirmed & Subscribed to before me
This day of 2000

Sgt A. Conto
Deputy Sheriff

Notary Public

Sheriff

My commission expires

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PA

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W

Plaintiffs,

v

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST
ENERGY GROUP, L L C , and
PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

Defendants

Docket No 2010-3954

)
)
)
)
)
) **MarkWest Energy Partners, LP and**
) **MarkWest Energy Group, LLC's**
) **Response in Opposition to Plaintiffs'**
) **Motion to Stay All Rules to File**
) **Complaint and For Leave of Court to**
) **Conduct Pre-Complaint Discovery in**
) **the Nature of Information and**
) **Document Production for the**
) **Purpose of Drafting and Serving a**
) **Sufficient Complaint, and Motion to**
) **Stay Proceeding for a Sufficient**
) **Period to Allow Plaintiff to Conduct**
) **Discovery**
)
) Filed on behalf on behalf of Defendant
) MarkWest Energy Partners, LP and
) MarkWest Energy Group, LLC by
)
) Erin Windle McDowell, Esquire
) Pa I D No 93684
) Eckert Seamans Cherin & Mellott, LLC
) 600 Grant Street, 44th Floor
) Pittsburgh, PA 15319
) (412) 566-6070
) (412) 566-6099 *facsimile*

2010 AUG 11 AM 9:47

¹ Plaintiffs name as Defendants MarkWest Energy Partners, LP and MarkWest Energy Group, LLC in the caption of its writ of summons and Motion. However, MarkWest Liberty Midstream and Resources is the entity operating in Washington County, not those listed above.

and Motion to Stay Proceedings for a Sufficient Period to Allow Plaintiff to Conduct Discovery (i.e , Plaintiffs' Motion) and state as follows:

INTRODUCTION

Plaintiffs, Mr and Mrs Hallowich, filed a writ of summons against Defendant MarkWest, and several other Defendants on May 27, 2010, along with the instant thirteen page Motion², which effectively seeks to restructure the Pennsylvania Rules of Civil Procedure, placing discovery ahead of the pleading stage of litigation. In addition, Plaintiffs' Motion is fraught with conclusory allegations having no support in fact or record. MarkWest disputes the allegations raised in Plaintiffs' Motion, and even if considered true, Plaintiffs' Motion must be denied as discussed more thoroughly below.

STANDARD OF REVIEW

"The reasonableness of a given [discovery] request are matters for the trial court to determine in the exercise of its sound discretion." *McNeil v Jordon*, 894 A 2d 1260, 1278-1279 (Pa 2006)

ARGUMENT

1. Plaintiff's Motion for Pre-Complaint Discovery Fails to Demonstrate that the Information Sought is "Material and Necessary" For Drafting a Complaint and Amounts to a "Fishing Expedition"

Plaintiffs' Motion must be denied because Plaintiffs have failed to demonstrate in any way that the information sought is "material and necessary" – the requisite standard for obtaining the requested pre-complaint information – in order to draft and file a complaint against MarkWest. Specifically, Rule 4003.8 states as follows:

² The Plaintiffs' Motion served on MarkWest does not have attached a proposed Order, despite the reference to a proposed Order in the body of Plaintiffs' Motion.

(a) A plaintiff may obtain pre-complaint discovery where the information sought is material and necessary to the filing of the complaint and the discovery will not cause unreasonable annoyance, embarrassment, oppression, burden or expense to any person or party

(b) Upon a motion for protective order or other objection to a plaintiff's pre-complaint discovery, the court may require the plaintiff to state with particularity how the discovery will materially advance the preparation of the complaint. In deciding the motion or other objection, the court shall weigh the importance of the discovery request against the burdens imposed on any person or party from whom the discovery is sought

Pa R C P. 4003 8 (emphasis supplied)

By way of background, the Pennsylvania Supreme Court in *McNeil v Jordon*, 894 A 2d 1260 (Pa 2006), announced the following standard which a litigant must establish to obtain pre-complaint discovery

To obtain pre-complaint discovery, a litigant should be required to demonstrate his good faith as well as probable cause that the information sought is both "material and necessary" to the filing of a complaint in a pending action. A plaintiff should describe with reasonable detail the materials sought, and state with particularity probable cause for believing the information will materially advance his pleading, as well as averring that, but for the discovery request, he will be unable to formulate a legally sufficient pleading

Id at 1278

Following the opinion in *McNeil*, and the suggestion of Justice Baer, *see id* at 1279, fn 27, the Pennsylvania Rules of Civil were amended to include Rule 4003 8 to deal specifically with requests for pre-complaint discovery. The Explanatory Comment to Rule 4003 8 states that "The requirement of the [*McNeil*] opinion that there be 'probable cause' that the information sought is material and necessary has not been included in the rule." Thus, to the extent the *McNeil* probable cause standard is no longer viable, it has been replaced by a more stringent standard of establishing the information sought is "material and necessary" and that the plaintiff state "with particularity how the

discovery will materially advance the preparation of the complaint.” Pa R C P 4003 8
Because Plaintiffs’ Motion cannot even pass the “probable cause” standard set forth in
McNeil, it certainly cannot satisfy the applicable, heightened standard provided by Rule
4003 8

Indeed, Plaintiffs’ allege that the requested information is needed in order to
allege intentional tort theories of liability against MarkWest and the other Defendants
Plaintiffs’ Motion ¶¶37-39 However, a thorough review of Plaintiffs’ Motion reveals
that Plaintiffs have failed to demonstrate, with any degree of specificity, how the
information sought would enable them to establish the existence of intentional harm on
the part of MarkWest (an allegation denied by MarkWest) for purposes of drafting a
legally sufficient complaint Plaintiffs’ base their entire argument on the premise that the
information sought is in “Defendants sole possession and control,” Plaintiffs’ Motion
¶40, ¶50, and that “the discovery requested is material and necessary to Plaintiffs’ case”
Id ¶54

These conclusory allegations do not even reach the *McNeil* “probable cause”
standard – i e , that a plaintiff must describe with reasonable detail the materials sought,
and state with particularity the probable cause for believing the information will
materially advance his pleading – let alone the more stringent standard set forth in Rule
4003 8 *McNeil*, 894 A 2d at 1278 (emphasis supplied) Furthermore, the Pennsylvania
Superior Court in *Cooper v Frankford Health Care Sys , Inc* , 960 A.2d 134, 142 (Pa
Super Ct 2008), denied a motion for pre-complaint discovery for the same reasons this
Court must deny Plaintiffs’ Motion – “plaintiff failed to present facts supporting a
reasonable belief that the evidence sought would support a cognizable cause of action”

As required by *McNeil*, *Cooper*, and Rule 4003 8, Plaintiffs, critically, fail to explain why the production of information would reveal the existence of some level of intent for purposes of establishing a *prima facie* claim on some amorphous intentional tort theory of liability against MarkWest (a contention denied by MarkWest) In other words, Plaintiffs make the bald assertion that the information is “material and necessary” and fail to provide any support whatsoever for such a contention³ In this respect, Plaintiffs attempt to seek pre-complaint discovery without support that the information sought is “material and necessary” amounts to nothing more than a “fishing expedition” and abuse of the discovery process to try to uncover some amorphous cause of action See *McNeil* at 1278 (“Under no circumstances should a plaintiff be allowed to embark upon a fishing expedition, or otherwise rely on an amorphous discovery process to detect a cause of action .”), *see also Cooper* at 140

The very nature of Plaintiffs’ requests set forth in the Motion evidence its attempt to “fish” Plaintiffs state that they want to take pre-complaint discovery “to obtain documents from Defendants and/or depose representatives of Defendants with knowledge of adverse incidents”, but do not identify with any particularity who should be deposed or for what purpose it will materially advance the drafting of a complaint Plaintiffs’ Motion ¶39 Furthermore, this request along with the other requests directed toward

³ While reserving MarkWest’s right to contest the sufficiency of any complaint once filed, in reviewing Plaintiffs’ motion it becomes obvious that Plaintiffs’ either already have information or are aware of certain information in order to draft a complaint – an important factor for the Court’s consideration weighing against granting Plaintiff’s Motion Indeed, a review of the information sought from MarkWest clearly establishes that the Plaintiffs already have specific information relating to MarkWest’s operations based upon the request for information from particular dates of operation For example, Plaintiffs request “any and all reports and investigation of unusual gas releases from the subject Defendant facility, particularly the release dated October 20, 2009” and “all investigations as to the cause of the fire at the Stewart Compressor Station dated December 9, 2009 and reports made to administrative agencies and/or Washington County” Plaintiffs’ Motion ¶48(a), (g), *see also* ¶¶30-32

MarkWest are overly broad, unduly burdensome, and seek information far beyond that needed to draft a complaint. Thus, Plaintiffs' Motion must be denied.

2. The "Interests of Justice" Are Furthered by Denying Plaintiffs' Motion for Pre-Complaint Discovery

Plaintiffs also assert in support of their motion that by permitting this pre-complaint discovery request that it will "creat[e] the unnecessary risk of future unexpected amendments to the Complaint based upon newly discovered facts."

Plaintiffs' Motion ¶45. This argument is completely without merit. The Pennsylvania Rules of Civil Procedure have adopted a mechanism which embraces amendments to pleadings based upon newly discovered information. See Pa. R. C. P. 1034 ("An amendment may be made to conform the pleading to the evidence offered or admitted"). Plaintiffs appear to want to write this rule out of existence.

Indeed, for this reason and for several reasons discussed by the Honorable Judge Wettick, "the interests of justice are furthered by a court order barring discovery for the preparation and trial of the case until the plaintiffs complaint has been filed, the defendant's preliminary objections to the plaintiffs complaint have been resolved, and the defendant has filed an answer to the complaint" – including

- 1) a defendant should have the opportunity to show that the claims raised in the complaint fail to state a cause of action before responding to discovery involving these claims
- 2) a party should not be required to engage in discovery until the pleadings containing the averments of fact upon which a plaintiff's claims and a defendant's defenses are based have been filed. Pennsylvania has rejected notice pleading, the purpose of the requirement of the Rules of Civil Procedure that the parties plead material facts is to narrow the factual issues. Thus, the discovery rules should be applied in a manner consistent with these pleading rules that are based on the premise that discovery will be narrowed if the contours of the dispute are initially defined through fact pleading.

3) Pa R C P 4003 1 permits a party to obtain discovery of matters relevant to the subject matter involved in a pending action. Until a complaint has been filed that meets the specificity requirements of the Pennsylvania Rules of Civil Procedure, a defendant and a court may not be in a position to determine whether the discovery which the plaintiff seeks involves matters relevant to the subject matter involved in the pending action.

4) prior to the filing of the complaint, a plaintiff's counsel will have had the opportunity to discuss the case with the plaintiff and with witnesses favorable to the plaintiff, to review documents in the control of the plaintiff, and to consider the legal issues that will govern the litigation. Counsel for the defendant may not have any knowledge of the claim until after the lawsuit is commenced. Consequently, the rules governing discovery should be applied to give a defendant's counsel sufficient time to determine the nature of the dispute before responding to extensive discovery requests.

Potts v Consolidated Rail Corp, 37 Pa D & C 4th 196, 199-200 (1998). A copy of J

Wettick's opinion is attached hereto as Exhibit A.

As explained by Judge Wettick in this thoughtful discussion regarding the use of pre-complaint discovery, a party may not use this tactic to engage in open-ended requests for information to make out some amorphous cause of action – as the Plaintiffs' seek to do here. See *McNeil, Cooper, supra*. Discovery, as Judge Wettick explains, should be limited to those facts relevant to actual claims pled in a complaint. *Potts*, 37 Pa D & C 4th at 199-200. Thus, Plaintiffs' Motion must be denied.

WHEREFORE, based upon the foregoing, Defendants, MarkWest Energy Partners, LP and MarkWest Energy Group, LLC respectfully request this Court in the exercise of its sound discretion deny Plaintiffs' Motion.

Respectfully submitted,

A handwritten signature in cursive script, reading "Erin W. McDowell", is written over a horizontal line.

Erin W McDowell, Esq

Pa I D No 93684

Eckert Seamans Cherin & Mellott, LLC

600 Grant Street, 44th Floor

Pittsburgh, PA 15219

*Attorneys for MarkWest Energy Partners, LP and
MarkWest Energy Group, LLC*

Dated August 11, 2010

Docket No 2010-3954

ORDER

AND NOW, this _____ day of August, 2010, upon consideration of Defendant MarkWest Energy Partners, LP and MarkWest Energy Group, LLC Response in Opposition to Plaintiffs' Motion to Stay All Rules to File Complaint and For Leave of Court to Conduct Pre-Complaint Discovery in the Nature of Information and Document Production for the Purpose of Drafting and Serving a Sufficient Complaint, and Motion to Stay Proceeding for a Sufficient Period to Allow Plaintiff to Conduct Discovery, it is so ORDERED that Plaintiffs' Motion is DENIED

By the Court,

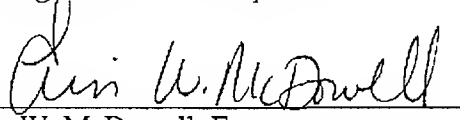
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Defendant Mark West Energy Partners, LP and MarkWest Energy Group, LLC Response in Opposition to Plaintiffs' Motion to Stay All Rules to File Complaint and For Leave of Court to Conduct Pre-Complaint Discovery in the Nature of Information and Document Production for the Purpose of Drafting and Serving a Sufficient Complaint, and Motion to Stay Proceeding for a Sufficient Period to Allow Plaintiff to Conduct Discovery has been served upon the following counsel of record by hand delivery on August 11, 2010

Villari, Brandes, & Kline, PC
8 Tower Bridge
161 Washington Street, Suite 400
Conshohocken, PA 19428
Attorneys for Plaintiffs Mr and Mrs Hallowich

Babst, Calland, Clements & Zominir, PC
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222
Attorneys for Defendant Williams Gas/Laurel Mountain Midstream

K&L Gates
K&L Gates Center
210 Sixth Avenue
Pittsburgh, Pennsylvania 15222
Attorneys for Defendant Range Resources Corporation


Erin W McDowell, Esq
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219

*Attorneys for MarkWest Energy Partners,
LP and MarkWest Energy Group, LLC*

1998 WL 1005136, 37 Pa D & C 4th 196
(Cite as: 1998 WL 1005136 (Pa.Com Pl), 37 Pa. D. & C.4th 196)

C

Court of Common Pleas of Pennsylvania, Allegheny
County
Potts
v
Consolidated Rail Corp
No. GD98-4502

September 21, 1998

*1 This opinion addresses precomplaint discovery

West Headnotes

Pretrial Procedure 307A 41

307A Pretrial Procedure

307A1 Depositions and Discovery

307A1(A) Discovery in General

307Ak41 k Objections and Protective Orders Most Cited Cases
Because plaintiff failed to demonstrate that precomplaint discovery was necessary in order for her to be able to file a complaint, the court was ordered that defendants were not required to comply with plaintiff's recomplaint discovery requests
WETTICK, J

**197 Allen N Brunwasser for plaintiff

Craig M Lee, for defendants

Plaintiff commenced this action by filing a praecipe for a writ of summons in civil action. Plaintiff included the following description of her lawsuit in this praecipe:

"This case will involve breach of contract, fraud and deceit in obtaining a release and settlement from plaintiff with no intent to comply in violation of good faith, and in order to have her waive even non-waivable provisions**198 of various legislative benefits, in violation of public policy."

*2 Plaintiff's counsel has submitted a separate set of interrogatories to each of the defendants requesting,

inter alia, that the defendant state in narrative form everything that was discussed and by whom at a March 11, 1998 conference call, state all discussions concerning the return of plaintiff to a nonagreement position, state everything said and done by the defendant and others to prevent plaintiff's return, and state why the defendant and others did not return telephone calls made by plaintiff's counsel on March 13 and March 16, 1998.

Defendants have filed a motion for a protective order to prohibit discovery prior to the filing of a complaint. Defendants contend that plaintiff's discovery should be prohibited because plaintiff's discovery requests go beyond the information needed to prepare a complaint and plaintiff has failed to make a showing that any precomplaint discovery is necessary.

Pa R C P 4001(c), 4007.3, 4011(b), and 4012 govern precomplaint discovery. Rule 4001(c) provides that "[s]ubject to the provisions of this chapter, any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for preparation of pleadings." Rule 4007.3 permits the court upon motion to issue orders involving the sequence and timing of discovery "for the convenience of parties and witnesses and in the interests of justice." Rule 4011(b) provides that no discovery shall be permitted which "would cause unreasonable annoyance, embarrassment, oppression, burden or expense to the deponent or any person or party." Rule 4012 provides that "[u]pon motion by a party and for good cause shown, the court may make any order which justice requires to protect a party or **199 person from unreasonable annoyance, embarrassment, oppression, burden or expense."

I have never issued an opinion addressing the scope of precomplaint discovery. Within the past year on most Fridays, I have received at least one motion for a protective order seeking a court order staying discovery until the pleadings are closed. Usually, the motion is filed by a defendant who contends that a complaint should be filed before either party engages in discovery. The second most common situation involves discovery sought either by a plaintiff or a defendant while preliminary objections are pending. Upon presentation of these motions, I advise counsel



1998 WL 1005136, 37 Pa. D. & C.4th 196
(Cite as: 1998 WL 1005136 (Pa. Com.Pl.), 37 Pa. D. & C.4th 196)

that I ordinarily stay discovery until the pleadings are closed unless the party seeking the discovery can show a compelling reason. There are exceptions to this rule where the discovery request is narrow and the production of the information that is sought will not cause annoyance, embarrassment, oppression, burden or expense to the responding party. Consider, for example, a discovery request in which the plaintiff seeks a copy of the plaintiff's written employment agreement with the defendant or a plaintiff's request for his or her medical records to a medical provider.

*3 For several reasons, the interests of justice are furthered by a court order barring discovery for the preparation and trial of the case until the plaintiff's complaint has been filed, the defendant's preliminary objections to the plaintiff's complaint have been resolved, and the defendant has filed an answer to the complaint.^{FN1}

^{FN1} This opinion addresses general docket cases filed in this court that will not be tried until at least nine months after the case is placed at issue. This opinion does not address discovery in arbitration proceedings that may be scheduled for trial within three to four months after the filing of the complaint, in landlord-tenant proceedings that may be scheduled for trial within one month of the filing of the complaint, in equity actions that will be promptly resolved, or in any other expedited proceedings.

**200 First, a defendant should have the opportunity to show that the claims raised in the complaint fail to state a cause of action before responding to discovery involving these claims.

Second, a party should not be required to engage in discovery until the pleadings containing the averments of fact upon which a plaintiff's claims and a defendant's defenses are based have been filed. Pennsylvania has rejected notice pleading, the purpose of the requirement of the Rules of Civil Procedure that the parties plead material facts is to narrow the factual issues. Thus, the discovery rules should be applied in a manner consistent with these pleading rules that are based on the premise that discovery will be narrowed if the contours of the dispute are initially defined through fact pleading.

Third, Pa. R. C. P. 4003.1 permits a party to obtain discovery of matters relevant to the subject matter involved in a pending action. Until a complaint has been filed that meets the specificity requirements of the Pennsylvania Rules of Civil Procedure, a defendant and a court may not be in a position to determine whether the discovery which the plaintiff seeks involves matters relevant to the subject matter involved in the pending action.

Fourth, prior to the filing of the complaint, a plaintiff's counsel will have had the opportunity to discuss the case with the plaintiff and with witnesses favorable to the plaintiff, to review documents in the control of the plaintiff, and to consider the legal issues that will govern the litigation. Counsel for the defendant may ^{**201} not have any knowledge of the claim until after the lawsuit is commenced. Consequently, the rules governing discovery should be applied to give a defendant's counsel sufficient time to determine the nature of the dispute before responding to extensive discovery requests.

In most oral arguments involving a defendant's motion to bar discovery until a complaint is filed, I advise the plaintiff's counsel that he or she is already in a position to file a complaint on the basis of the description of the lawsuit that the plaintiff's counsel offers at the oral argument. Frequently, I receive one of the following responses to my statement that the plaintiff should file a complaint. The plaintiff's counsel may state that he or she needs to engage in discovery because possibly the discovery will show that the defendant is not legally responsible for the plaintiff's harm^{FN2} or the plaintiff's counsel may state that the defendant will file preliminary objections seeking greater specificity if the complaint is filed without additional discovery.

^{FN2} One attorney representing a defendant responded to this argument by stating that she "no longer believes in the tooth fairy."

*4 My response to the first argument is that it should be the defendant's call. My response to the second argument is that if preliminary objections raising insufficient specificity are sustained, I will permit the discovery that is necessary for the preparation of the amended complaint.

In this case, plaintiff's counsel contends that the re-

1998 WL 1005136, 37 Pa D & C 4th 196
(Cite as: 1998 WL 1005136 (Pa.Com Pl), 37 Pa D & C.4th 196)

strictions which I impose on precomplaint discovery are inconsistent with rulings of the Pennsylvania appellate courts and opinions involving precomplaint discovery that I have issued I disagree

****202** The appellate courts have recognized that precomplaint discovery is permitted Gallucci v Phillips & Jacobs Inc., 418 Pa Super 306, 314, 614 A2d 284, 288-89 (1992), Lombardo v DeMarco 350 Pa Super 490, 495-96, 504 A2d 1256, 1258-59 (1985), Spain v Vicente, 315 Pa Super 135, 141 n 2, 461 A2d 833, 836 n 2 (1983), Gross v United Engineers and Constructors Inc., 224 Pa Super 233, 237, 302 A2d 370, 372 (1973). However, the appellate courts have never discussed the limitations that may be placed on precomplaint discovery because they have never considered a ruling of a trial court that either permitted precomplaint discovery to which a defendant objected or denied a plaintiff's request for precomplaint discovery

I have considered discovery requests before the pleadings are closed in Cowell v Borough of Penn Hills, 34 Pa D & C 3d 539 (C P Allegheny 1982), and in Pennsylvania Manufacturers Association Insurance Co v Indyk, 7 Pa D & C 3d 333 (C P Allegheny 1978). In Cowell, I considered only two issues whether the rules permit precomplaint discovery and whether the police department's internal investigative files of incidents involving a police officer's alleged improper use of force are protected from discovery under Rule 4011. In that case, the defendants never raised the argument that the discovery was unnecessary for the filing of a complaint.^{FN3} Consequently, my ruling permitting discovery was based on my rejecting the defendants' position that the discovery^{**203} rules require that a complaint be filed before a plaintiff may obtain any discovery and that Rule 4011 does not protect police department records from a discovery request made by the person injured in the incident

^{FN3} In all likelihood, defendants did not raise the issue that the discovery was unnecessary for the preparation of the pleadings because police officers from as many as six municipalities may have been present at the shopping center where the incident occurred and the plaintiff's counsel sought documents to discover which police officers and police departments were involved in the incident

for purposes of preparing a complaint

***5** In Pennsylvania Manufacturers Association Insurance Co v Indyk, *supra*, the issue that I addressed was whether a plaintiff may depose a defendant in order to gather facts to amend a complaint which is being challenged by the defendant through preliminary objections. In that case, the defendant, citing Gross v United Engineers and Constructors Inc., *supra*, argued that the rules permit only discovery that will assist in the preparation of the initial complaint and discovery after the pleadings are completed, the rules do not permit discovery that will aid in the preparation of an amended complaint. I rejected this argument, stating that the rules permit a plaintiff whose complaint is being challenged for failure to plead with sufficient particularity facts upon which the cause of action is based to engage in discovery which will substantially aid in the preparation of an amended complaint. In this opinion, I stated

"Moreover, we believe that discovery prior to the filing of a complaint should be discouraged because a defendant who is served only with a writ of summons and a notice of deposition cannot effectively prepare for the deposition and has little basis for challenging the relevancy of any question. Thus, we should construe Pa R C P 4007 to require plaintiff, whenever possible, to file and serve prior to discovery a complaint which sets forth any facts presently known to plaintiff and permit discovery to aid in the preparation of an amended complaint which will include those missing facts for which discovery is necessary. Obviously, we cannot protect defendants in this manner while protecting plaintiffs' ****204** right to engage in discovery to aid in the preparation of the complaint if we accept defendants' construction of Pa R C P 4007." *Id* at 337-38 (citation omitted)

The restrictions that I impose on precomplaint discovery are similar to restrictions that trial courts have imposed on precomplaint discovery under the previous Rules of Civil Procedure governing depositions and discovery as well as under the existing rules.^{FN4} Most common pleas court opinions addressing precomplaint discovery require the plaintiff to show that a complaint cannot be drafted without the discovery which the plaintiff seeks. See Anderson v PennDOT, 47 Pa D & C 3d 429, 431 (C P Cumberland 1987), and cases cited therein, 9 Goodrich-Amram 2d

1998 WL 1005136, 37 Pa D & C 4th 196
(Cite as: 1998 WL 1005136 (Pa.Com Pl.), 37 Pa. D. & C.4th 196)

§4001(c) 4 at 123 (1993) ("In order to be entitled to take a deposition or to obtain discovery as an aid in the preparation of a pleading as authorized by Rule 4001(c), the party must show that the pleading cannot be prepared absent such a deposition")

FN4 According to the explanatory note-1978 to Rule 4001, the 1978 amendments were not intended to change the permissible purposes of discovery

*6 In the present case, plaintiff has not met her burden of establishing that the discovery which she seeks is necessary in order to file a complaint setting forth any valid causes of action. For these reasons, I enter the following order of court

ORDER

Upon consideration of defendants' motion for a protective order, it is hereby ordered that defendants need not respond to the precomplaint discovery submitted by plaintiff

Pa Com Pl 1998
Potts v Consolidated Rail Corp
1998 WL 1005136, 37 Pa D & C 4th 196

END OF DOCUMENT

7

RECUSAL FORM

RE: Plaintiffs' Motion for Pre-Complaint Discovery, etc., presented to this Judge in Motion's Court on Aug. 11, 2010. Motion attached along with MarkWest Energy's Brief in Opposition. Plaintiffs' lawyers are from near Philadelphia; defense lawyers are from different firms in Pittsburgh. This is a toxic tort case.

Plaintiffs' lawyer is by submitting a brief by August 20th; defense lawyers who have not already submitted a brief must file by August 27th.

During argument, I did not recuse myself. But upon reflection, I may have a financial conflict with Range Resources so it is best that I recuse.

JUDGE: Janet Moschetta Bell

CAPTION: Stephanie Hallowich and Chris Hallowich, H/W vs. Range Resources Corp. and Williams Gas/Laurel Mountain Midstream and MarkWest Energy Partners and Pa. Dept. of Environmental Protection (the only defendant who did not oppose the Motion – see letter attached)

CASE NUMBER: 2010-3954

REASON: Financial conflict with Range Resources

MOTION REASSIGNED TO :

Paul Rozovsky
Debbie O'Dell Seneca P.J.
DEBBIE O'DELL SENECA, P.J.

Please advise if you want my staff to notify the lawyers of my recusal. If so, I will need these papers returned for that purpose.

2010 AUG 17 PM 4:02

VILLARI, BRANDES & KLINE, P.C.

BY Peter M Villari, Esquire
Attorney ID #26875
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**IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PA
PREMISES LIABILITY ACTION - CIVIL CASE**

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W
179 Avella Road
Hickory, PA 15340

Plaintiffs

v.

Docket No 2010-3954

May Term, 2010

Jury Trial Demanded

RANGE RESOURCES CORPORATION
380 Southpointe Boulevard
Canonsburg, PA 15317

-and-

WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM
1550 Coraopolis Heights Road, 2nd Floor
Moon Township, PA 15108

-and-

MARKWEST ENERGY PARTNERS, L.P
MARKWEST ENERGY GROUP, L.L.C
100 Plaza Drive, Suite 102
P O Box 279
Atlasburg, PA 15004

-and-

PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION
400 Waterfront Drive
Pittsburgh, PA 15222-4745

Defendants

**PLAINTIFFS' BRIEF IN SUPPORT OF MOTION TO STAY ALL RULES
TO FILE COMPLAINT AND FOR LEAVE OF COURT TO CONDUCT
PRE-COMPLAINT DISCOVERY IN THE NATURE OF INFORMATION
AND DOCUMENT PRODUCTION FOR THE PURPOSE OF DRAFTING AND
SERVING A SUFFICIENT COMPLAINT, AND MOTION TO STAY
PROCEEDING FOR A SUFFICIENT PERIOD TO ALLOW PLAINTIFFS TO
CONDUCT DISCOVERY**

AND NOW, comes Plaintiffs, through their Attorneys, Villari, Brandes & Kline, P C , and respectfully submit this Brief in support of their Motion to Stay All Rules to File Complaint and for Leave of Court to Conduct Pre-Complaint Discovery Plaintiffs' Motion should be granted where: 1) Pennsylvania jurisprudence allows for pre-complaint discovery in the preparation of pleadings, especially given Pennsylvania's fact-pleading requirements, 2) The Pennsylvania Department of Environmental Protection ("DEP") does not object to Plaintiffs seeking pre-complaint discovery; 3) Plaintiffs' pre-complaint discovery is material and otherwise necessary to file a Complaint, 4) Plaintiffs have stated facts supporting a reasonable belief that the evidence sought would support cognizable causes of action, and 5) Plaintiffs' pre-complaint discovery will not cause Defendants any unreasonable annoyance, embarrassment, oppression, burden, expenses or prejudice, rather will foster judicial economy and efficiency.

I. BACKGROUND

The matter herein involves complex legal issues relating to environmental contamination and adverse health exposure, attributable to Defendants' gas drilling and processing activities occurring at or around Plaintiffs' home and property, located at 179 Avella Road, Hickory, PA 15340 On June 28, 2005, Plaintiffs purchased property to build a home for themselves and their young children Plaintiffs commenced construction on their new home at or around November 1, 2006. Unknown to the Plaintiffs, the prior owner, Nancy Stewart had subdivided the property and then sold a portion to Defendant Range Resources Corporation ("Range") for the purpose of drilling natural gas wells to be developed by way of a process called hydraulic fracking or "fracking"¹ A lease to the

¹ Hydraulic fracking or "fracking" is a complicated drilling process by which chemical fluids are injected underground for the purpose of breaking Marcellus shale so as to harvest the natural gas In recent

mineral rights under Plaintiffs' property had also been executed by Ms. Stewart. On May 24, 2007, Plaintiffs' home was built with the walls completely framed. Plaintiffs eventually installed a water well, their only source of water in October of 2007.

In July of 2007, without any proper notification to Plaintiffs, Defendant Range commenced the drilling and installation of a gas well ("Stewart Well # 8"), including hydraulic fracking activities. Such gas drilling and processing activities with respect to Stewart Well # 8 occurred less than 1000 feet from Plaintiffs' property. Additional drilling, processing, and fracking activities, had occurred without any notice to Plaintiffs from May to August of 2007, including but not limited to the construction of Stewart Well # 1, Stewart Well # 4, and Stewart Well # 6, all of which are in close proximity and/or surrounding Plaintiffs' property.

In 2008, Defendants MarkWest Energy Partners, L.P., and MarkWest Energy Group, L.L.C. ("MarkWest"), built the Stewart Compressor station less than 580 yards from Plaintiffs' home, in order to further facilitate the processing and transporting of natural gas to market. Additionally, in 2008, Defendant Williams Gas and the Laurel Mountain Midstream ("Laurel Mountain") built a gas conditioning facility, Laurel Mountain Midstream Dew Point Control Facility approximately 340 yards from Plaintiffs' home, in order to further facilitate the processing and transporting of natural gas to market. In essence, over the course of a few years, Plaintiffs' once quiet, serene, and pristine dream home and property became the center for an extensive gas drilling industry.

months, such gas drilling and processing activities have been the source of much national media attention, see e.g. Andrew Maykuth, *Marcellus Shale Dispute Bubbling Up in Northeast Pennsylvania*, PHILADELPHIA INQUIRER, July 4, 2010, available at http://www.philly.com/inquirer/front_page/20100704_Marcellus_Shale_dispute_bubbling_up_in_northeast_Pennsylvania.html (last accessed Aug. 16, 2010).

The area to which Defendants' industry is located is zoned agricultural, but despite this, Defendants were allowed to install, build, and conduct gas drilling activities on such land. In fact, Plaintiffs have been unable to obtain any information as to whether the Township zoning laws with respect to Defendants were properly followed and/or enforced, including the effectuation of proper zoning hearings. Additionally, Plaintiffs have been unable to obtain any information as to whether Defendants were required to submit appropriate zoning hearing applications, seek proper zoning permits, and/or zoning variances. Plaintiffs believe with respect to Defendants, zoning procedures, hearings, code, and regulations were not properly followed, whereby Defendants were able without limitation, to commence their gas drilling operations in the area.

Since Defendants' gas drilling, processing, fracking, and transporting activities have commenced, the area at or in close proximity to Plaintiffs' property has been the subject of chronic, ongoing, and unceasing environmental contamination (both water and air) and exposure related concerns, including but not limited to numerous issues relating to public nuisance, and adverse health risk related matters.

For instance, on July 30, 2007, shortly after Defendants' commencement of gas drilling and processing activities related to Stewart Well # 8, Plaintiffs' immediate neighboring landowner, the Brickmeyers, filed a Complaint with the Pennsylvania Department of Environmental Protection ("DEP") related to the environmental contamination and health risk exposure of their water supply, as a result of the drilling activities in the area and possible leaking of the casing from Stewart Well # 8. See Plaintiffs' Exhibit "A." As a result, the Brickmeyers, were eventually relocated for a period time, including being given an alternative water source and filtering equipment by

Defendant Range. Additionally, Defendant Range has made similar accommodations to other neighboring land owners as a result of concerns pertaining to environmental contamination and adverse health risk exposure²

In June of 2009, Plaintiffs conducted testing of their well water, the results of which confirmed the presence of various volatile organic compounds (VOCs), including but not limited to acrylonitrile and styrene. In fact, samples taken at Plaintiffs' property showed the presence of acrylonitrile to be measured at approximately, 1 46 UG/L, significantly above regulatory limits.³ As a result of such water contamination, Plaintiffs have incurred and continue to incur, significant costs and expenses in obtaining alternative potable water for cooking, drinking and bathing. Additional water testing of neighboring wells and an adjacent stream has also produced results, establishing, the presence of acrylonitrile and other VOCs above regulatory limits. See Plaintiffs' Exhibit "B "

As of this date and despite such testing, Plaintiffs lack definitive information concerning the source of such water contamination (namely whether such has been caused by one or all of Defendants' gas drilling and processing operations); the

² Contrary to Defendant Range's representations, despite experiencing similar contamination and health concerns, Plaintiffs have at no time been offered any accommodations by Defendants for potable water, filtering equipment, or an opportunity to relocate

³ According to the U S Center for Disease Control (CDC), Acrylonitrile is a colorless, liquid, man-made chemical with a sharp, onion or garlic-like odor and is used to make other chemicals such as plastics, synthetic rubber, and acrylic fibers. With respect to Defendant's gas drilling and processing, acrylonitrile is commonly used as part of the liner for the water impoundment and is also utilized as a chemical to reduce friction related to drilling activity. The CDC reports that "breathing high concentrations of acrylonitrile will cause nose and throat irritation, tightness in the chest, difficulty breathing, nausea, dizziness, weakness, headache, impaired judgment, and convulsions." Additionally, the CDC references that the "Department of Health and Human Services (DHHS) has determined that *acrylonitrile may reasonably be anticipated to cause cancer in people*." See Agency for Toxic Substances and Disease Registry (ATSDR), ToxFaq for Acrylonitrile, available at <http://www.atsdr.cdc.gov/tfacts125.html> (last accessed on Aug 16, 2010) (emphasis added)

dispersion and distribution pathway of such contamination, any and all VOCs and hazardous chemicals that may be involved; Defendants' activities; and the specific health risks, if any, of such VOCs and hazardous chemicals and the water contamination they cause. Additionally, Plaintiffs are without knowledge as to whether the DEP has taken any regulatory action against any of the Defendants for such water contamination, whether in the form of permitting, consent decrees, violations, fines or other regulatory action.⁴

Plaintiffs have and continue to be subjected to the release of chronic, ongoing, unceasing, and foul smelling noxious gases, spraying "drip gas"⁵ and other potentially harmful fumes from Defendants' gas drilling and processing operations. For example, on June 28, 2009, Plaintiffs believe that a valve malfunctioned operated by Defendant Range at Stewart Well # 8, spraying "drip gas" into the air, as a result of which Plaintiffs suffered from nausea, severe headaches, and other health issues, requiring them to physically leave their home. Plaintiffs also believe that Defendant Range has been the source of numerous other adverse and harmful releases. Plaintiffs are, however, without knowledge as to whether such releases were permissible, reported to the DEP and what, if any, action by the DEP was taken. Plaintiffs also lack information as to whether any and all releases by Defendant Range were planned or the result of equipment malfunction.

Additionally, Plaintiffs believe that similar noxious gases, odors, and harmful substances have been emitted from Defendant Laurel Mountain's Dew Point Control

⁴ In fact, Plaintiffs have previously requested that the DEP conduct further independent and comprehensive testing to fully evaluate and identify the source, cause, and significance of the findings of the acrylonitrile water contamination. As of date, no such testing has been performed.

⁵ Drip gas is natural gas condensate, a naturally occurring form of gasoline found near many oil and natural gas wells, in natural gas pipelines, and as a byproduct of natural gas extraction.

Facility as a result of drilling and processing operations and/or a result of equipment malfunctions. For example, on April 16, 2010, Plaintiffs believe that Defendant Laurel Mountain experienced an unauthorized release of gas or other hazardous substances into the air. Such releases also caused Plaintiffs to suffer from various adverse health issues, including respiratory problems, burning eyes, throat irritation, severe headaches, and other health issues, again, requiring them to physically leave their home. Plaintiffs believe that Defendant Laurel Mountain has also been the source of numerous other adverse and harmful releases. Plaintiffs are without knowledge however, as to whether such releases were permissible, reported to the DEP and what, if any, action by the DEP was taken. Plaintiffs lack information as to whether any and all releases by Defendant Laurel Mountain were planned or the result of equipment malfunction.

Plaintiffs submit that noxious gases, odors, and harmful substances have been emitted from Defendant MarkWest's facilities as a result of drilling and processing operations and/or as a result of equipment malfunctions. For instance, on October 20, 2009, Plaintiffs believe that there was an unauthorized release of gas or hazardous substances from a Mark West facility. Such releases caused Plaintiffs to suffer from various adverse health issues including respiratory problems, burning eyes, throat irritation, severe headaches, and other health issues, again requiring them to physically leave their home. Plaintiffs believe that Defendant Mark West has been the source of numerous other adverse and harmful releases. Plaintiffs are, however, without knowledge as to whether such releases were permissible, reported to the DEP and what, if any, action by the DEP was taken. Plaintiffs also lack information as to whether any and

all releases by Defendant Mark West, were planned or the result of equipment malfunction

Plaintiffs also suffer from chronic, ongoing, and unceasing public nuisances in the form of noise, traffic, dust, odors, as well as various safety issues that have adversely affected the value of their house⁶, quality of life, safety, and health for them and their children. Indeed, Plaintiffs are routinely exposed to deafening noise at all periods during the day and night which interferes with their sleep, constant traffic, unrelenting dust from the traffic, and inadequate protective fencing or barriers around dangerous gas facility impoundments. Plaintiffs believe that the source of such public nuisances comes from all three Defendants. Despite active efforts by Plaintiffs to get Defendants to cease and desist from their unsafe, hazardous, and nuisance related activities, Defendants continue to subject Plaintiffs to such adverse living conditions. Additionally, despite Plaintiffs efforts to get the DEP to protect and enforce their rights as citizens and homeowners, the DEP as of date, has not acted diligently to regulate Defendants' industry or the environment.

Plaintiffs' efforts to draft, plead, aver, and otherwise file an adequate and sufficient Complaint has been significantly curtailed by the lack of available public information and the DEP's cooperation regarding Defendants' activities and the related water and air contamination, and the aforesaid public nuisance issues⁷. Accordingly, Plaintiffs on May 27, 2010 filed a Writ of Summons and a Motion to Stay and Motion for

⁶ Indeed, Plaintiffs experienced immense difficulty in obtaining a listing agent and have also been advised that even if their house is listed, that the property is still virtually "unsellable."

⁷ Plaintiffs have unsuccessfully sought information from Defendant Range by way of letter dated January 21, 2010, see Plaintiffs' Exhibit "C." Additionally, Plaintiffs have sought, but have not received certain regulatory information about the water and air contamination from the DEP, including conducting certain DEP file reviews, which was also proved unsuccessful in that relevant information was missing

Pre-Complaint Discovery Defendant Mark West filed a responsive brief on August 11, 2010.

As set forth in Plaintiffs' Motion, Plaintiffs require certain material and necessary information to proceed with the filing of their Complaint, namely information concerning the source, nature, and scope of their water and air contamination issues, and public nuisance issues as set forth herein. In short, Plaintiffs should be entitled to know of the relevant source, identity, volume, and magnitude of their water contamination, adverse air exposure, and alleged nuisances so as to properly file their Complaint

Specifically, Plaintiffs seek with particularity information from Defendant Range, including a) comprehensive listing of all chemicals used in its hydraulic fracking process; b) casing records on Stewart Well # 8 and any and all DEP records related to the July 30, 2007 contamination complaint by the Brickmeyers, c) any and all complaints of water or air contamination, or any contamination of any kind, related to adjacent Stewart Wells #s 1, 4, 6, and 8, made to either Defendant or the DEP; d) any and all reports of investigations of equipment malfunctions or spills near to, at and/or around Stewart Wells #s 1, 4, 6, and 8, e) any and all report or investigations of defects in the liner or contamination from the Stewart Impoundment, immediately adjoining Plaintiffs' property; f) any and all environmental testing done on properties neighboring Stewart Wells # 1, 4, 6 and 8; g) any and all pre-drill and post-drill testing of properties neighboring Stewart Wells # 1, 4, 5, 8; h) a list of all homes in the area of the Stewart Wells receiving potable water deliveries which are being provided and/or paid by the Defendant due to water quality concerns, investigations, and complaints; and i) all documents to which Plaintiffs are entitled as a Lessor and which have previously been

requested by letters dated January 21, 2010 and March 4, 2010 See Plaintiffs' Motion at pp 9-10 at ¶¶ 46(a)-(f)

With respect to Defendant Laurel Mountain, Plaintiffs seek with particularity, the following information, including a) any and all reports and investigation of unusual gas releases from the Defendant facility, particularly the release dated April 16, 2010; b) any and all reports of equipment malfunctions that resulted in gas releases, at, or around the Defendant's subject facility, c) all complaints by neighbors regarding excess noise, lighting, odors or traffic from the aforementioned and subject facility and response or investigation of said complaints; d) all air testing and sound testing done at or around the subject facility or on properties of neighbors to the subject facility, e) all computerized system warnings from the date of start-up to the present that indicate that gas needs to be vented or otherwise released in order to avoid hazardous conditions and/or an explosion; and f) All zoning and permitting applications that were filed before the subject facility⁸ See Plaintiffs' Motion at pp 10-11 at ¶¶ 47(a)-(f)

Concerning Defendant Mark West, Plaintiffs seek with particularity, the following information, including a) any and all reports and investigation of unusual gas releases from the subject Defendant facility, particularly the release dated October 20, 2009, b) any and all reports of equipment malfunctions that resulted in gas releases, at or around the subject Defendant facility, c) any and all computerized system warnings from the date of start-up to the present that indicate that gas needs to be vented or otherwise released in order to avoid hazardous conditions and/or an explosion, d) all complaints by

⁸ Indeed, Plaintiffs pre-complaint request for all zoning and permitting applications is based upon Plaintiffs lack of any information concerning zoning permits, variances, or other permissive zoning decisions that allowed Defendants to commence their gas drilling operation and activities on land that was and continues to be zoned as Agricultural

neighbors regarding excess noise, lighting, odors or traffic from the aforementioned subject facility and response or investigations of complaints, e) all air testing and sound testing done at or around the facility or on properties of neighbors to the subject facility; f) all zoning and permitting applications that were filed before the subject facility was built, and g) all investigations as to the cause of the fire at the Stewart Compressor Station dated December 9, 2009 and reports made to administrative agencies and/or Washington County See Plaintiffs' Motion at p 11 at ¶¶ 48(a)-(g)

Last, with respect to the DEP, Plaintiffs seek with particularity, the following information, including a) any and all investigative information and complaints in its possession and/or control regarding water contamination and air contamination from Range Resources Stewart Wells # 1, 4, 6 and 8; b) any and all investigative information and complaints in its possession and/ or control regarding air releases by the Mark West Energy Group's Stewart Compressor Station, c) any and all investigative information and complaints in its possession and/ or control regarding air releases by Laurel Mountain Midstream Dew Point Control Facility, d) any and all pre-drill and post-drill testing of Stewart Well #1, 4, 6, 8, and e) complete investigative file regarding Complaint #230257, dated 7/30/2007. See Plaintiffs' Motion at pp. 11-12 at ¶¶ 49(a)-(e).⁹

II. Standard of Review

Whether or not to grant a plaintiff pre-complaint discovery, is within the sound discretion of the trial court and generally, reviewable only for an abuse of discretion. See McNeil v. Jordan, 894 A 2d. 1260, 1268 (Pa 2006) (citing Commonwealth v Ograd, 839 A.2d 294 (Pa 2003). The Pennsylvania Supreme Court has set forth that the trial court

⁹ As will be discussed herein, the DEP by way of letter to the Court dated August 10, 2010, has indicated it has no objection to Plaintiffs' Motion for Pre-Complaint discovery and the type of information being requested See infra Plaintiffs' Brief, at III (B)

may consider within its sound discretion, a number of factors when determining whether to allow pre-complaint discovery, including “the reasonableness of a given request, as well as the existence of probable cause and the good faith of the party seeking discovery.” *Id.* at 1278. More specifically, the trial court “exercises significant discretion, weighing the importance of the request against the burdens imposed on the subject party to determine, as a practical matter, whether the discovery request should be permitted.” *Id.*¹⁰

III. ARGUMENTS

A. Pennsylvania Jurisprudence Allows for Pre-Complaint Discovery in the Preparation of Pleadings.

Pennsylvania law clearly provides for pre-complaint discovery in the preparation of pleadings, especially given Pennsylvania’s fact pleading requirements. For instance, the Pennsylvania Rules of Civil Procedure, explicitly “contemplate pre-complaint discovery” whereby,

Subject to the provisions of this chapter, any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for the purpose of discovery, *or for preparation of the pleadings*, or for preparation or trial of a case, or for use at a hearing upon petition, motion, or rule, or for any combination of the foregoing purposes.

See *McNeil v. Jordan*, 894 A.2d 1260, 1268 (2006) (citing to Pa.R.C.P. 4001 (c))

(emphasis added).

More specifically, where a Complaint is deemed a pleading, discovery may therefore be utilized in its preparation. *Id.* at 1269 (citing to Pa. R.C.P. 1017 and 4007.1)

¹⁰ The Pennsylvania Supreme Court also set forth in *McNeil*, that “nothing in this Opinion should be construed to diminish materially a trial court’s time-honored prerogative to evaluate pleadings and discovery requests and to fashion discovery orders in light of what it deems appropriate in a given case rather, simply aims to guide trial courts in exercising their undisputed discretion to grant or deny pre-complaint discovery requests according to the exigencies of a given case.” *Id.* at 1279

More specifically, where a Complaint is deemed a pleading, discovery may therefore be utilized in its preparation Id at 1269 (citing to Pa R C P. 1017 and 4007 1). In fact Pennsylvania's fact pleading requirements, pursuant to Pa R C P 1919(a) "play a critically important role in Pennsylvania's pleading scheme." Id, see also Pustilnik v. SEPTA, 45 Pa D. & C 2d 799 (C P Phila 1968) (stating that "pre-complaint discovery should be disallowed unless a complaint cannot be drafted without it."), Anderson v. PennDot, 47 Pa. D & C. 3d 429 (C.P. Cumberland 1987) (pre-complaint discovery should be permitted when "a complaint cannot be drafted without it") Under the Commonwealth's fact-pleading regime, "any complaint must state facts in which the complainant reasonably believes, and under which a good faith argument may reasonably be made that Pennsylvania law provides, or under developing law may provide, relief Id at 1276

Furthermore, Pennsylvania courts recognize that where a plaintiff "legitimately sought discovery to substantially aid in preparation of the pleadings, the discovery should be permitted . " Id. at 1270 Additionally, it has been held that "pre-complaint discovery should be restrictively allowed, narrowly drafted, and permitted *only* when a complaint capable of surviving preliminary objections *cannot be filed without aid of the requested discovery*." Id at 1274 (emphasis added) Similarly, when seeking pre-complaint discovery, "the moving party can set forth probable cause that, based on the facts known to him, the evidence sought prior to the filing of a complaint will support a cognizable cause of action pursuant to existing or developing Pennsylvania law " Id. at 1276 Pre-complaint discovery is to be granted "where a litigant has averred that absent such discovery *his suit will not be able to proceed* " Id at 1277 (emphasis added).

Accordingly, pre-complaint discovery “is a means to the specific end of gathering sufficient information for the filing of a complaint, and is appropriate only when there is probable cause to believe it will achieve that end.” *Id.* at 1278.

More specifically, to obtain pre-complaint discovery, “a litigant should be required to demonstrate his good faith as well as probable cause that the information sought is *both material and necessary* to the filing of a complaint in a pending action.” *Id.* (emphasis added) Thus, a plaintiff “should describe with *reasonable detail the materials sought, and state with particularity probable case for believing the information will materially advance his pleading, as well as averring that, but for the discovery request, he will be unable to formulate a legally sufficient pleading*” *Id.* (emphasis added)

Thus, based upon Pennsylvania’s well-established principals governing a trial court’s discretion in granting pre-complaint discovery given the fact-pleading requirements, Plaintiffs should respectfully be afforded an opportunity to conduct such discovery in preparation of their Complaint

B. The Pennsylvania Department of Environmental Protection (DEP) Does Not Object to Plaintiffs Seeking Pre-Complaint Discovery

Plaintiffs’ Motion for Pre-Complaint discovery should be granted where the DEP, by way of its regulatory and oversight function, has agreed to produce the information sought from Plaintiffs

The Pennsylvania Department of Environmental Protection (“DEP”), created pursuant to Act 18 of the Conservation and Natural Resources Act, has been granted explicit power, authority, and duties in the protection of the environment. *See* 71 P.S. § 510-1, 71 P.S. § 1340.101. The DEP’s role includes operating within the limitations of

Pennsylvania's Constitution, granting people the right to clean air, pure water, and to the preservation of natural, scenic, historic and esthetic values of the environment. See Pa Const Art 7, § 27. In essence, the DEP is trustee of all public natural resources in the Commonwealth of Pennsylvania Id. With respect to its regulatory function, the DEP's interpretation of its regulations and regulatory scheme is entitled to deference and should not be disregarded unless shown to be clearly erroneous See e.g. Eagle Envtl., L P v Dep't of Envtl Prot. 833 A 2d 805 (Pa Cmwlt. 2003)

With respect to the matter *sub judice*, the DEP's Office of Chief Counsel, Southwest Regional Office, has respectfully advised the Court by way of letter dated August 10, 2010, that the "Department does not oppose" Plaintiffs' Motion for Pre-Complaint Discovery, including advising Plaintiffs' counsel of the DEP's willingness to provide them with any and all pre-complaint discovery in the agency's possession. Accordingly, Plaintiffs respectfully request that consistent with the DEP's position, Plaintiffs be afforded an opportunity to conduct such pre-complaint discovery.

C. Plaintiffs' Pre-Complaint Discovery is Material and Otherwise Necessary to File a Complaint.

Although maintaining some general and anecdotal knowledge of the specific circumstances involving their claims of water and air contamination and the alleged public nuisance. Plaintiffs lack the type of information required to adequately draft a Complaint, including determining, applying and averring specific legal claims, relief, and demands. For instance, although Plaintiffs maintain a good faith belief that their water supply is being contaminated with harmful chemicals such as acrylonitrile and other VOCs likely caused by Defendant Range, Plaintiffs lack information as to the specific source or origin of such water contamination. In fact, it is possible the source of such

water contamination may be attributable to the other Defendants Laurel Mountain or Mark West and may contain other harmful unknown chemicals not determined by Plaintiffs' own testing. Plaintiffs submit that such information is in the exclusive possession and control of the Defendants, including the DEP

Plaintiffs also lack information as to the root cause or causes if any, of such well water contamination, namely whether such contamination is from the gas drilling operations related to Stewart Well # 8 by Defendant Range or as a result of possible contamination of a three acre waste water impoundment adjacent to Plaintiffs' property, including the possibility of leaking due to obvious liner problems. Also, Plaintiffs lack information as to the specific type of water contamination experienced by their neighbor's the Bricklemeyers, or the actions, if any, taken by the DEP in response to the Bricklemeyer's complaint. Lastly, Plaintiffs are without knowledge as to whether such water contamination is isolated or more widespread, including whether there have been any reports of health issue, sickness, or illness related to the contaminated water. Plaintiffs submit that such information is in the exclusive possession and control of the Defendants and the DEP

Plaintiffs do not have any information by which to determine the source or origin of any or all of the releases of noxious gases or hazardous chemicals, including the incidents of June 28, 2009, April 16, 2010, and October 20, 2009.¹¹ Again, although Plaintiffs suspect that such releases came from one of the three named Defendants, Plaintiffs lack reasonable evidence to determine with specificity the exact source of such

¹¹ Such is contrary to Defendant Mark West's assertion that "Plaintiffs' either already have information or are aware of certain information in order to draft a complaint." See Defendant's Response in Opposition, p. 5, fn. 3. As stated herein, Plaintiffs previously requested such information from Defendants, but received no response.

releases. Additionally, Plaintiffs lack information regarding whether such releases were unauthorized or permitted, a result of human or equipment error; the exact time and duration of such releases; the type of VOCs and hazardous materials being emitted, whether the release(s) were intentional¹², and whether such releases were reported to or known to the DEP

Accordingly, Plaintiffs respectfully submit that the pre-complaint discovery being sought is material and necessary to Plaintiffs' filing of a Complaint, and therefore request Plaintiffs' Motion be granted.

D. Plaintiffs' Have Stated Facts Supporting a Reasonable Belief that the Evidence Sought Would Support a Cognizable Cause of Action

As Pennsylvania Courts have stated, in addition to demonstrating that the discovery sought is material and necessary to drafting a legally sufficient complaint, plaintiff must also demonstrate "probable cause for believing the information will materially advance [her] pleading" [including] "facts supporting a reasonable belief that the evidence sought [would] support a cognizable cause of action" See Cooper v. Frankford Hospital, 960 A.2d 134, 142 (Pa. Super 2008).

In the matter *sub judice*, Plaintiffs pursue various regulatory, tort, and nuisance related legal claims, including in pertinent part the following legal claims: First, Plaintiffs seek recourse against Defendants pursuant to Pennsylvania's Clean Streams Laws, whereby owner and operators of oil or gas wells "may not cause or allow a discharge of a substance to the Waters of this Commonwealth unless the discharge

¹² As articulated by Plaintiffs, "to the degree that Plaintiffs seek to file intentional tort theories of recovery, Plaintiffs are required to plead that the Defendant acted intentionally, namely, either acted for the purpose of causing harm, or knew that harm is resulting or is substantially certain to result from his conduct" See Plaintiffs' Motion, at p 8, ¶ 37 Plaintiffs are unable to plead any level of intentionality or punitive damages related claims in the absence of such pre-complaint discovery

complies with .. the Clean Streams law ” See 25 Pa Code § 78 60 Accordingly, information concerning Defendants gas drilling, hydraulic fracking, and processing activities, is necessary and material, to determine what if any unlawful discharges, including the type of substances may resulted in the contamination of Plaintiffs’ well water supply, and therefore in violation of Pennsylvania’s Clean Streams Law

As set forth herein, such pre-complaint discovery request is based upon Plaintiffs’ own testing of their water showing the presence of acrylonitrile (above the regulatory limit) and other VOCs Plaintiffs’ discovery request is also predicated on information that their neighbors the Bricklemeyers, previously filed a Complaint with the Pennsylvania Department of Environmental Protection (“DEP”) related to water contamination involving Stewart Well # 8 and the possibility that the casings may have been compromised

Second, Plaintiffs are pursuing claims against Defendants for trespass. Within the environmental context, trespass is defined by Pennsylvania Courts as being “an unprivileged, intentional intrusion upon land in possession of another.” See Graham Oil Co v. BP Oil Co., 885 F Supp. 716, 725 (W.D. Pa 1994) (citing to Kopka v. Bell Telephone Co., 371 Pa. 444, 91 A.2d 232, 235 (Pa. 1952)) With respect to contamination, Pennsylvania Courts recognize that a continuing trespass or permanent trespass is based upon:

the actor's failure to remove from land in the possession of another thing which he has tortiously . placed on the land constitutes a continuing trespass for the entire time during which the thing on the land and . confers on the possessor of the land in option to maintain a succession of actions based on a theory of continuing trespass or to treat continuance of the thing on the land as an aggravation of the original trespass.

See Piccolini, et al., Plaintiffs v Simon's Wrecking, et al , 686 F Supp 1063, 1075 (M D Pa. 1988) (citing to Restatement (Second) of Torts, § 162, comment (e)); see also Graham Oil Co v. BP Oil Co., 885 F. Supp 716, 725 (W.D Pa 1994) (citing to restatement (Second) of Torts § 161, comment (b)) Plaintiffs' pre-complaint discovery in pertinent part attempts to determine whether there exists a trespass, and more importantly, whether Plaintiffs' water and air contamination are sufficiently significant to therefore be deemed continuing and/or permanent.

Third, Plaintiffs here plead claims for common law private nuisance, which is defined in Pennsylvania as "a nontrespassory invasion of another's interest in the private use and enjoyment of land." See Graham Oil Co. v BP Oil Co , 885 F. Supp 716, 725 (W D Pa. 1994) (citing to Restatement (Second) of Torts § 821D), see also Harford Penn-Cann Service, Inc. v Zymblosky, 549 A.2d 208, 209 (Pa Super. 1988)). As stated herein, Plaintiffs adverse quality of life by way of their contaminated water and air has been a chronic, ongoing, and unceasing situation Plaintiffs' pre-complaint discovery, therefore, for example, duly seeks information concerning the source and scope of the foul smelling, noxious gas releases, to fully determine whether the harms suffered by Plaintiffs, arise to the level of a claim for common law private nuisance

Fourth, Plaintiffs are pursuing claims for personal injury and negligence, which within the toxic tort setting requires a showing of the following elements 1) breach of duty, 2) exposures to defendant's toxin; 3) injury, and 4) causality See Dombrowski v Gould Elecs., Inc , 85 F Supp 2d. 456, 457 (M D. Pa. 2000) (citing to In re TMI, 193 F.3d 613, 1999 U S. App LEXIS 28415 (3d. Cir 1999)) (also setting forth plaintiff in toxic tort case must demonstrate 1) defendants released harmful or hazardous chemicals

emitted by defendants was the cause of those injuries). Without knowledge regarding the source, cause, or scope of the water and air contamination alleged by Plaintiffs, any claims for negligence are uncertain without the type of pre-complaint discovery sought by Plaintiffs. Plaintiffs' pre-complaint discovery is narrowly tailored to produce information that will assist Plaintiffs in demonstrating negligence, namely that Defendants' are in fact the source of Plaintiffs air and water contamination and exposure, that the contamination is in harmful or hazardous, and that such has and is the cause of Plaintiffs ongoing health related issues

Fifth, Plaintiffs are pursuing claims for diminution of the value of their home and property. Pennsylvania recognizes a plaintiff's claim for diminution of the value of property as a result of a defendant's negligence. See e.g. In re Paoli R.R. Yard PCB Litig., 35 F 3d 717, 797-98 (3d Cir 1994), Samii v Hall, 2009 Pa Dist & Cnty. Dec LEXIS 121 at *8 (C.C.P. 2009) (citing to Pa. Dep't. of General Services v. U.S. Mineral Products Company, 898 A 2d 590 (2006) and Duquesne Light Co. v Woodland Hills Schl Dist., 700 A 2d 1038, 1053 (Pa Cmwlth, 1997)) Plaintiffs' pre-complaint discovery is material and necessary in determining whether there is a claim for diminution, including the calculation of economic harm based upon the scope of the contamination and adverse environmental exposure. Indeed, Plaintiffs cannot even obtain pertinent zoning information despite asking the local authorities for it numerous times.

Accordingly, Plaintiffs' ability to adequately assert and plead legally cognizable claims for violations of Pennsylvania's Clean Streams Laws, 25 Pa Code § 78 60; trespass (continuing and/or permanent); common law private nuisance, negligence, and

diminution of property value, is dependant upon the specific information being sought by way of pre-complaint discovery. Thus, Plaintiffs' Motion for pre-complaint discovery should be granted.

E. Plaintiffs' Pre-Complaint Discovery Will Not Cause Defendants Unreasonable Annoyance, Embarrassment, Oppression, Burden, Expenses or Prejudice, Rather Will Foster Judicial Economy and Efficiency.

Plaintiffs' pre-complaint discovery does not prejudice Defendants in any way, rather fosters judicial economy and efficiency, whereby Plaintiffs will be able to adequately plead and assert any and all claims by way of their initially filed Complaint, rather than by way of subsequent pleadings.

Defendant Mark West argues that the "interests of justice" are furthered by denying Plaintiffs' Motion for Pre-Complaint discovery, relying in pertinent part, Potts v. Consolidated Rail Corp, 37 Pa. D & C 4th 196, 199-200 (1988). Defendant's reliance on Potts is misguided, especially where Potts failed to take into account the subsequent judicial precedent set forth by McNeil v. Jordan, 894 A 2d. 1260, 1268 (Pa. 2006), supra at pp. 11-12.

Additionally, contrary to Defendant's articulation of Potts, the Court did in fact recognize a sweeping exception to barring pre-complaint discovery until plaintiff's complaint has been filed. As the Court stated,

There are exceptions to this rule where the discovery request is narrow and the production of information that is sought will not cause annoyance, embarrassment, oppression, burden or expense to the responding party ... consider for example, a discovery request in which the plaintiff seeks a copy of the plaintiffs' written employment agreement with the defendant or a plaintiffs' request for his or her medical records to a medical provider.

Id. at 200 (emphasis added)

consider for example, a discovery request in which the plaintiff seeks a copy of the plaintiffs' written employment agreement with the defendant or a plaintiffs' request for his or her medical records to a medical provider

Id. at 200 (emphasis added)

In the matter *sub judice*, Plaintiffs requests for pre-complaint discovery are akin to the type of discovery Potts deemed permissible, including certain environmental regulatory, monitoring, and testing records.

Defendant Mark West also asserts Plaintiffs' Motion for Pre-Complaint Discovery lacks good-faith, onerous, and amounts to nothing more than an "attempt to fish." See Defendant Mark West's response at p. 5. Such arguments are similarly misguided, as Plaintiffs have made every effort to request their pre-complaint discovery with particularity, specifically tailored to sufficiently afford Plaintiffs an opportunity to properly plead their Complaint.

For the foregoing reasons set forth herein, Plaintiffs respectfully request that their Motion for Pre-Complaint Discovery be granted for the purpose of affording Plaintiffs the opportunity to file their Complaint.

Respectfully submitted,

VILLARI, BRANDES & KLINE, P.C.

By 

Peter M. Villari, Esquire
Attorney for Plaintiffs

Dated: August 19, 2010

Exhibit A

Pennsylvania Department of Environmental Protection
Confidential Investigation Report

CTS00111
Page 1 of 1

Complaint Information

EP Sw Rgnl Off Pittsburgh

Complaint Id:	230257	Related Complaint Id:	None
Municipality:	Mount Pleasant Twp	County:	Washington
Entered By:	KIMBERLY A GRAZIER	Confidential(Y/N):	Y
Source:	Phone Call	ER Related (Y/N)	N
Date Received:	07/30/2007	After Hours Ind (Y/N):	N
Short Description:	GAS WELL DRILLED BEHIND HOUSE		
Long Description:	COMPANY DRILLED GAS WELL BEHIND HOUSE SPRING IS CONTAMINATED. HOUSE IS UNLIVABLE THERE IS NO WATER & THE SMELL IS REALLY BAD HE IS TRYING TO SELL HOUSE & REALTOR CANNOT SHOW HOUSE BECAUSE OF THE PROBLEM STAYING @ RAMADA INN SO LEFT CELL PHONE NUMBER WANTS TO MEET THE INSPECTOR OUT THERE AT THE SITE COMPANY NAME IS GREAT LAKES "SOMETHING"		

Site Location:

Responsible Party Information

Name:	-	Work Phone:	-	Ext:	-
Home Phone:	-				
Company Name:	-	Mobile Phone:	-		
Address:	-	Permit#:	-		
		County:	-		

Response Information

Priority:	3
Program:	Oil & Gas
Complaint Type:	Leaking Gas
Date Resp Assigned:	07/30/2007
Date Response Due:	09/10/2007
Date First Response:	-
Date Resolved:	-
Date Referred:	-
Referred To:	-
Comments:	-
Inspector:	MARK W KIEL

Supervisor: ALAN J EICHLER

Investigation Information

Date Invest Assigned:	07/30/2007	Date Investigated:	-	Type:	Site Visit
Inspector:	MARK W KIEL	Violation(Y/N):	No		
eFACTS Inspection Id:		Investigation Id:	238490		
Investigation Description:					

*** End of Report ***



Exhibit B

Water Contamination Testing

Property Owner	Test Date	Testing Facility	Contaminates Found	Result Amt.	VOC's	Result Amt.	Chapter 93 Human Health Criteria	Chapter 250 Standards residential aquifer
Hallowich	04/01/19	Microbac Laboratories Inc.	Alkalinity Manganese Sodium	296 mg/L 11 mg/L 31.4 mg/L				50 µg/l
	05/12/09	PA DEP	Manganese Iron Alkalinity	179.60 UG/L 662.0 UG/L 297.2 mg/L				50 µg/l 300 µg/l
	06/01/09	Robert Hunt			Acrylonitrile Styrene	1.46 UG/L Trace	0.051 µg/l	0.63 µg/l 100 µg/l
	06/09/09	PA DEP	Manganese	186.00 UG/L				50 µg/l
		*at water impoundment *at water impoundment			Acetone Ethylene Glycol	3.43 UG/L 1.1 MG/L	3500 µg/l	3700 µg/l
	06/09/09	RT Lab	Manganese Lead	0.18 0.015			N/A	50 µg/l 5 µg/l
	06/18/09	Robert Hunt			Toluene Ethyl benzene	29 UG/L Trace	1300 µg/l 530 µg/l	1000 µg/l 700 µg/l
	06/20/09	Robert Hunt			Toluene Ethyl benzene	26 UG/L Trace	1300 µg/l 530 µg/l	1000 µg/l 700 µg/l
	06/20/09	Robert Hunt			Ethyl benzene	Trace	530 µg/l	700 µg/l
	06/22/09	Robert Hunt			Ethyl benzene	Trace	530 µg/l	700 µg/l
	06/24/09	Robert Hunt			Ethyl benzene	Trace	530 µg/l	700 µg/l
	06/24/09	Robert Hunt			Toluene	21 UG/L	1300 µg/l	1000 µg/l
	06/26/09	Robert Hunt			Ethyl benzene	Trace	530 µg/l	700 µg/l
	06/10/09	Robert Hunt			Tetrachloroethene Ethyl benzene	Trace Trace	530 µg/l 530 µg/l	700 µg/l 700 µg/l
	06/12/09	Robert Hunt			Ethyl benzene	Trace	530 µg/l	700 µg/l
	12/3/09	Robert Hunt			Acrylonitrile	1.45 UG/L	0.051 µg/l	0.63 µg/l
	12/3/09	Robert Hunt			Acrylonitrile	1.45 UG/L	0.051 µg/l	0.63 µg/l
Hallowich Creek								
Note: During the June and August testing, we had a large amount of rain								
	09/28/09	Robert Hunt			Acrylonitrile Chloroform	1.45 UG/L 1.91 UG/L	0.051 µg/l 5.7 µg/l	0.63 µg/l 100 µg/l
Skirpan	09/26/09	Robert Hunt			Chloroform	806 UG/L	5.7 µg/l	100 µg/l
Smitsky	09/26/09	Robert Hunt			Acrylonitrile	1.892 UG/L	0.051 µg/l	0.63 µg/l
Smith	09/26/09	Robert Hunt			Trichlorofluoromethane	713 UG/L	-	2000 µg/l
McQuillan	09/26/09	Robert Hunt			Acrylonitrile	1.727 UG/L	0.051 µg/l	0.63 µg/l
Mitchell								



Exhibit C

Deanna K. Tanner, Esquire
Member of PA Bar
e-mail: dtanner@villarilaw.com

January 21, 2010

Richard W Hosking
K&L Gates LLP
Henry W. Oliver Building
535 Smithfield Street
Pittsburgh, Pa 15222

Re Stephanie Hallowich Water Well Contamination

Dear Mr Hosking:

Based upon your last email to me, it is apparent to me that you and your client do not take my clients' concerns regarding water contamination and other nuisance conditions from Range with appropriate seriousness. Threatening me with sanctions for an allegedly frivolous law suit is not an especially effective tactic that will be beneficial to your client. I can only assure you that in my twenty years of practicing law, I have yet to ever file a suit deemed frivolous by any Court. That said, I can only encourage you to reconsider your responses to me about my clients' legitimate concerns and what Range might do to avoid litigation over same.

At this time, I am also writing to you to request all documents from your client to which my client is legally entitled to receive as a Lessor, including but not limited to those which are to be provided under sections 6.2 (Soil and Erosion and Sedimentation and Control Plans), 15.6 (PPC Plan), 15.9 (all control and Disposal Plans and approvals thereof), 17.1 (well records logs and reports including all data), 18.1 (meter charts on production of each well and statements by third parties regarding sale or transport of products) and 25.1 (all agreements and contracts concerning the sale of products) of the Nancy Stewart Lease Agreements, dated March 1, 2002. I also want to see casing records, and Range's response to the DEP incident report dated 07/30/2007 by then neighboring landowner, Jill Bricklemeyer and any other complaints of water contamination to assure that prudent and legal drilling operations are being conducted as set forth in Section 15 of the lease.



Mr Richard Hosking
January 21, 2010
Page 2

Last but not least, I am requesting a comprehensive listing of all chemicals used in your clients' fracking process and operations to determine whether or not your company is the source of the acrylonitrile and VOCs being found in my clients' and neighboring clients' water. I am willing to execute confidentiality/non-disclosure agreements if same is necessary as we have absolutely no interest in this information for other than a water contamination purpose.

I trust you realize that if you do not comply with my reasonable requests for information, I will proceed to file suit and obtain such information and discovery through a Court Order. Irrespective of the DEP's opinion on water contamination, an opinion that unfortunately is sometimes erroneous, I and my experts continue to believe that Range is the source for the contamination. I am willing to review all the documents you provide to better reach an understanding of your client's operations and their impacts on my clients' properties.

If after consideration you decide that you might like to discuss more amicable ways of resolving my clients' concerns, please contact me. Please note, however, that I will be away on vacation next week. Please feel free to speak to Robert Wilkey, Esquire, until my return.

Very truly yours,

VILLARI, BRANDES & KLINE, P.C.

Deanna Kaplan Tanner, Esquire

DKT/jab

cc: Ms. Stephanie Hallowich

VILLARI, BRANDES & KLINE, P.C.

BY Peter M Villari, Esquire
Attorney I D #26875
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428
(610) 729-2900 Ph

Attorneys for Plaintiffs

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PA
PREMISES LIABILITY ACTION - CIVIL CASE

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W
179 Avella Road
Hickory, PA 15340

Plaintiffs

DOCKET NO 2010-3954

MAY TERM, 2010

JURY TRIAL DEMANDED

v

RANGE RESOURCES CORPORATION, et al
380 Southpointe Boulevard
Canonsburg, PA 15317

CERTIFICATE OF SERVICE

Peter M Villari, Esquire, hereby certifies that copies of Plaintiffs' Brief in Support of Motion to Stay All Rules to File Complaint and for Leave of Court to Conduct Pre-Complaint Discovery in the Nature of Information and Document Production for the Purpose of Drafting and Serving a Sufficient Complaint, and Motion to Stay Proceeding for a Sufficient Period to Allow Plaintiffs to Conduct Discovery, was served upon the following this 19th day of August, 2010, via first class mail

Gail A Myers, Esquire
Office of Chief Counsel
400 Waterfront Drive
Pittsburgh, PA 15222-4745

2010 AUG 20 PM 9:50

Kathy K. Condo, Esquire
Babst, Calland, Clements & Zomnir, P C
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222

Erin Windle McDowell, Esquire
Eckert SeamansChern & Mellott LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219

James C. Swetz, Esquire
K&L Gates
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222-2613

Respectfully submitted,

Date _____

By

A handwritten signature in black ink, appearing to read 'PmV', is written over a horizontal line.

Peter M. Villari, Esquire
Attorney for Plaintiffs

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IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
PREMISES LIABILITY ACTION – CIVIL CASE

STEPHANIE HALLOWICH AND CHRIS
HALLOWICH, H/W,

Plaintiffs,

v

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L L C , and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

Docket No 2010-3954

**BRIEF OF DEFENDANT RANGE
RESOURCES CORPORATION IN
OPPOSITION TO PLAINTIFFS'
MOTION FOR PRE-COMPLAINT
DISCOVERY**

Filed on behalf of
Defendant Range Resources Corporation

Counsel of Record for this Party

Richard W Hosking, Esq
Pa I D #32982
James C Swetz, Esq
Pa I D #208717

K&L GATES LLP
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222-2613
412/355-6500
412/355-6501

12

12

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
PREMISES LIABILITY ACTION – CIVIL CASE

STEPHANIE HALLOWICH AND CHRIS)
HALLOWICH, H/W,)

Plaintiffs,)

v)

RANGE RESOURCES CORPORATION,)
WILLIAMS GAS/LAUREL MOUNTAIN)
MIDSTREAM, MARKWEST ENERGY)
PARTNERS, L P , MARKWEST ENERGY)
GROUP, L L C , and PENNSYLVANIA)
DEPARTMENT OF ENVIRONMENTAL)
PROTECTION,)

Defendants)

Docket No 2010-3954

**BRIEF OF DEFENDANT RANGE RESOURCES CORPORATION IN OPPOSITION TO
PLAINTIFFS' MOTION FOR PRE-COMPLAINT DISCOVERY**

Defendant Range Resources Corporation, by and through its counsel, K&L Gates LLP,
hereby files this Brief in Opposition to Plaintiffs' Motion for Pre-Complaint Discovery ("Brief in
Opposition")

A. Introduction

Range Resources Corporation ("Range Resources") is committed to having positive
relationships in the communities where we work, including personal relationships with the
thousands of Pennsylvanians who have a lease with us to develop the natural gas from their
property On May 27, 2010, Plaintiffs Stephanie and Chris Hallowich filed a Writ of Summons
against Range Resources,¹ MarkWest Energy Partners, L P ("MarkWest"), Williams Gas/Laurel

¹ Plaintiffs mistakenly name parent Range Resources Corporation as a defendant in the caption
of its Writ of Summons, Motion and Brief However, Range Resources-Appalachia, LLC, a

Mountain Midstream ("Williams"), and Pennsylvania Department of Environmental Protection ("DEP") Plaintiffs simultaneously filed a Motion to Stay All Rules to File Complaint and to Permit Pre-Complaint Discovery. At argument on August 11, 2010, before the Honorable Janet Moschetta Bell, the Court requested briefs from the parties. Accordingly, Range Resources submits this Brief in Opposition to (i) Plaintiffs' Motion to Stay All Rules to File Complaint and to Permit Pre-Complaint Discovery filed on May 27, 2010 ("Motion") and (ii) Plaintiffs' Brief in Support thereof filed on August 20, 2010 ("Brief").

As discussed more fully below, Plaintiffs have not and cannot establish that they are entitled to pre-Complaint discovery from Range Resources or Defendants. Range Resources has already made available to Plaintiffs water testing data and other information that is responsive to their information requests, and will continue to do so upon further request. In fact, Plaintiffs have failed to establish that anything further is necessary to the drafting of a Complaint.

While Range Resources maintains that the information voluntarily exchanged with Plaintiffs prior to the initiation of litigation demonstrates the baseless nature of their complaints concerning Defendants, Plaintiffs' own Motion and Brief reveals they are thoroughly aware of the claims upon which a Complaint would be based. Plaintiffs' Motion and Brief fails to identify any specific information, not already in their knowledge or possession, which is material or necessary for them to file a Complaint. Plaintiffs' request for pre-Complaint discovery is unnecessary and would be a complete waste of Defendants' time and resources in this case. The Court should deny their request.

subsidiary of Range Resources Corporation, operates in Washington County, Pennsylvania, not its parent, Range Resources Corporation

B. Plaintiffs' Allegations

Plaintiffs' Motion sets forth in detail the claims they are making against Defendants, just as a Complaint would.² Plaintiffs make these claims based on their alleged experiences with noise, traffic, chronic odors, and on well water and stream test results in their possession, which they claim constitute a nuisance and trespass on their property (*See, e.g.*, Motion at ¶¶ 2, 6, 16, 18, 25-28, 33-36). They specifically identify dates on which they allege events occurred with respect to certain of the operations for which they purport to bring a claim (*Id.* at ¶¶ 24, 29, 31-32). They also know the identity of the companies (who are Defendants, except for Range Resources where they named the parent company instead of the proper subsidiary) with operations in the vicinity of their residence. Plaintiffs do not require pre-Complaint discovery to assert claims based on alleged conditions about which they already have facts and information in their pleadings.

C. Pre-Complaint Discovery Is Not Appropriate Where a Complaint Can Be Filed Without The Aid of the Requested Discovery.

Pre-Complaint discovery is permitted only where **material** and **necessary** to the filing of a Complaint. Rule 4003.8 of the Pennsylvania Rules of Civil Procedure governs pre-Complaint discovery.³

(a) A plaintiff may obtain pre-complaint discovery where the information sought is material and necessary to the filing of the complaint

² Range Resources disputes the allegations in Plaintiffs' Motion, and it will demonstrate the baseless nature of Plaintiffs' claims against its subsidiary at the appropriate time. Nevertheless, Range Resources' subsidiary voluntarily provided, and has shown that it is willing to continue to provide, information regarding its operations.

³ For a more detailed discussion of the narrow circumstances in which pre-Complaint discovery is permitted, Range Resources respectfully refers the Court to pp. 2-7 of MarkWest's Brief in Opposition.

and the discovery will not cause unreasonable annoyance, embarrassment, oppression, burden or expense to any person or party

(b) Upon a motion for protective order or other objection to a plaintiff's pre-complaint discovery, the court may require the plaintiff to state with particularity how the discovery will materially advance the preparation of the complaint. In deciding the motion or other objection, the court shall weigh the importance of the discovery request against the burdens imposed on any person or party from whom the discovery is sought

Although Plaintiffs acknowledge this standard, they appear to confuse needing discovery to **prove claims** (which is not a basis for pre-Complaint discovery) with needing discovery to **draft and file a Complaint**

D Plaintiffs' Requested Discovery is Not Necessary to the Filing of a Complaint.

As an initial matter, Plaintiffs already possess information they say they need to file a Complaint. Range Resources' subsidiary voluntarily provided water testing data and other information in response to Plaintiffs' requests.⁴ For instance, twice in February 2010, Range Resources' subsidiary's counsel, Richard Hosking, provided relevant water testing data to Plaintiffs' counsel, Deanna Tanner, in response to her request for such information via e-mail.⁵

⁴ Plaintiffs attach as Exhibit D to their Motion a January 21, 2010 letter from Plaintiffs' counsel, Deanna Tanner, Esq. to Range Resources' counsel, Richard Hosking, Esq., requesting information from Range Resources. Plaintiffs claim that this letter "went unanswered" (Motion at ¶ 42). That statement is, however, simply incorrect.

⁵ See E-mail from Richard Hosking, Esq., K&L Gates LLP, to Deanna Tanner, Esq., Villari, Brandes & Kline, P.C. (February 5, 2010) (and attachments) (attached hereto as Exhibit A) (enclosing water testing results of wells, springs and other water supplies in the vicinity of the Stewart #6 and #8 Wells, and showing no evidence that Range Resources was the source of alleged water contamination and "non-detect" results for styrene and acrylonitrile in all waters tested), E-mail from Richard Hosking, Esq., K&L Gates LLP, to Deanna Tanner, Esq., Villari, Brandes & Kline, P.C. (February 18, 2010) (and attachments) (attached hereto as Exhibit B) (enclosing water testing results from water purveyors, the impoundment and other water supplies associated with the Stewart #8 Well, and showing no evidence that Range Resources' operations

These water testing results showed no evidence that Range Resources was the source of any alleged contamination of Plaintiffs' water supplies and, moreover, no evidence of styrene or acrylonitrile contamination in any waters tested. Apparently dissatisfied with this data because it was inconsistent with their plans to attempt to link Defendants' operations with the contaminants in their water, Plaintiffs now "seek with particularity" additional information, including, among other things, environmental and pre- and post-drilling water testing of properties neighboring the Stewart Wells. (Motion at ¶ 46(f)-(g), Brief at 9.)

Range Resources has already provided to Plaintiffs (and would continue to provide if necessary) water testing data and other information within its possession, custody and control that Plaintiffs' specifically request and that has not already been made available to them. However, Plaintiffs should be required to take a position based on their claims that they have been affected by Defendants' operations rather than to simply "fish" for water testing data and other information at the pre-Complaint stage and then make up claims later to fit the data. This is not the purpose of pre-Complaint discovery under Rule 4003.8. See *McNeil v. Jordan*, 894 A.2d 1260, 1278 (Pa. 2006) ("Under no circumstances should a plaintiff be allowed to embark upon a fishing expedition, or otherwise rely on an amorphous discovery process to detect a cause of action"). In this case Plaintiffs are well aware of the causes of action they plan to assert, and they should not be allowed to manipulate data to support a claim before they have to assert the basis for their claim.

Plaintiffs also frequently attempt to justify their need for pre-Complaint discovery by claiming that they need knowledge of DEP reports and DEP's actions and investigations. To the

were the source of alleged contamination and "non-detect" results for styrene and acrylonitrile in all waters tested)

needed dispersion modeling to see how far the alleged contamination had gone, and that they needed discovery to "assess liability"

Plaintiffs also attempt to justify their need for pre-Complaint discovery by claiming that they need to know about emissions and equipment malfunctions in order to identify the nuisances to which their property has been subjected. Plaintiffs clearly have access to their own property for any water or air tests they deem necessary to show any alleged contamination. In fact, according to their Motion, they have had their water tested, and additionally have access to neighbors' stream and water testing. Likewise, knowledge about other complaints made about the operations at issue is not necessary to draft a Complaint regarding the alleged conditions **on Plaintiffs' property**. Plaintiffs have in their possession the necessary information concerning any claimed impacts on their property that may serve as an alleged basis for any purported trespass or nuisance claims they seek to bring.

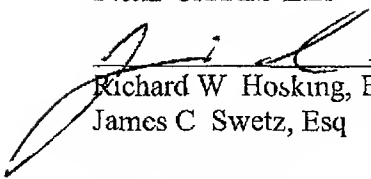
E. Conclusion

In sum, Plaintiffs have the facts and information needed to draft and file a Complaint, baseless though it may be. They have not met their burden to demonstrate any basis to be entitled to pre-Complaint discovery. The Court should deny their request.

WHEREFORE, Defendant Range Resources Corporation respectfully requests that Plaintiffs' Motion for Stay and Pre-Complaint Discovery be denied.

Date August 27, 2010

K&L GATES LLP



Richard W. Hosking, Esq
James C. Swetz, Esq

K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222-2613
412/355-6500
412/355-6501

***Counsel for Defendant Range Resources
Corporation***

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Brief of Defendant Range Resources Corporation in Opposition to Plaintiffs' Motion For Pre-Complaint Discovery** was served on the following individuals via first-class mail this 27th day of August, 2010

Peter M. Villari, Esquire
Villari, Brandes & Kline, P C
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428

Gail A. Myers, Esquire
DEP-Office of Chief Counsel
400 Waterfront Drive
Pittsburgh, PA 15222-4745

Erin W. McDowell, Esquire
Eckert Seamans Cherin
& Mellott, LLC
U S Steel Tower
600 Grant Street, 44th Floor
Pittsburgh, PA 15219

Kathy K. Condo, Esq
Babst, Calland, Clements & Zomnir, P C
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222



James C. Swetz, Esq

EXHIBIT A

Hosking, Richard

From Hosking, Richard
Sent Friday, February 05, 2010 2:36 PM
To: 'Deanna Tanner'
Subject: FW: Range water test results
Attachments Dec2009 Jan2010 WaterPurveyorAnalytical PDF

Dee

For your information call me Monday if you would like to discuss this

Rick'

Richard W. Hosking
K&L Gates LLP
Henry W. Oliver Building
535 Smithfield Street
Pittsburgh, Pa 15222
Phone 412-355-8612
Fax 412-355-6501
E-mail richard.hosking@klgates.com
Website www.klgates.com

From: Byers, Kellie
Sent: Friday, February 05, 2010 12:30 PM
To: Hosking, Richard
Subject: Range water test results

8/26/2010

Environmental Services Laboratories, Inc
1803 Philadelphia Street
Indiana, PA 15701

Today's Date: 31-Dec-09

Sampled by: RS

Range Resources - Appalachia, LLC.

ATTN: Mark Hunneshagen

FAX# 724-743-8790

WELL DEPTHS


Well ID Name: **STEWART, NANCY UNIT #6**

Purveyor Name:	Well Depth/ Spring:	Date Sample Derived:	Comments:	Results Requested
Brian Stewart	150'	12/29/2009	Well Kitchen faucet	Yes

Plat Complete: NO - 1 more

This information is provided for your review and confirmation that all samples on the above mentioned plat have been taken.

Should you have any questions and / or concerns, please feel free to contact
Kathy Brown at Environmental Service Laboratories, Inc. @ 724-463-8378

ESL ID#: <u>0937547</u>		WATER SUPPLY ID		 <div style="text-align: right;">2</div>	
Well Name & #: <u>STEWART, NANCY UNIT #6</u>					
Permittee: <u>RANGE</u>					
Inventoried By: <u>RS</u>		Date Inventoried: <u>12-29-09 1300</u>			
Person Interviewed: <u>JOHN (SON)</u>					

PROPERTY OWNER	REPORTED QUALITY PRIOR TO TREATMENT	TREATMENT
Name: <u>BRIAN STEWART</u>	No Yes	<input checked="" type="checkbox"/> NONE <input type="checkbox"/> softening <input type="checkbox"/> pH adjust <input type="checkbox"/> chlorination <input type="checkbox"/> _____ <input type="checkbox"/> iron removal <input type="checkbox"/> in-line sediment filter <input type="checkbox"/> charcoal filter <input type="checkbox"/> UV light
Address: <u>70 CAIDWELL RD</u>	staining <input checked="" type="checkbox"/> <input type="checkbox"/>	
Address: <u>HICKORY, PA 15340</u>	bad taste <input checked="" type="checkbox"/> <input type="checkbox"/>	
Phone #: <u>724-3576-2490</u>	odor <input checked="" type="checkbox"/> <input type="checkbox"/>	
RESIDENT	cloudiness <input checked="" type="checkbox"/> <input type="checkbox"/>	
Name:	oil film <input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> submersible <input type="checkbox"/> jet <input type="checkbox"/> windmill <input type="checkbox"/> other
Address:	ever go dry <input checked="" type="checkbox"/> <input type="checkbox"/>	
Address:		
Phone:	PUMP DATA	
	<input type="checkbox"/> none <input type="checkbox"/> gas piston	

SUPPLY TYPE	WATER USE	WELL DATA	SPRING DATA
<input checked="" type="checkbox"/> well <input type="checkbox"/> spring <input type="checkbox"/> cistern <input type="checkbox"/> city supply	<input checked="" type="checkbox"/> domestic <input type="checkbox"/> husbandry <input type="checkbox"/> irrigation <input type="checkbox"/> other	<input checked="" type="checkbox"/> drilled well depth: <u>150'</u> <input type="checkbox"/> dug static level: _____	<input type="checkbox"/> gravity feed <input type="checkbox"/> pump <input type="checkbox"/> spring house <input type="checkbox"/> underground vault

Requested copy of analysis? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		SAMPLING POINT LOCATION	
SAMPLED: <input type="checkbox"/> Before treatment <input type="checkbox"/> After treatment <input checked="" type="checkbox"/> No treatment		<input checked="" type="checkbox"/> inside faucet: <u>KITCHEN</u> <input type="checkbox"/> outside faucet: _____ <input type="checkbox"/> pressure tank <input type="checkbox"/> bailed from well <input type="checkbox"/> bailed from spring	

Is it possible to run your water for 30 minutes to complete a timed flow test? ☒ Yes ☐ No If no, please explain:

How many water sources do you have. List all: 1

Is your water source or sources located on your property? ☒ Yes ☐ No If no, please explain:

I hereby acknowledge that I have supplied the correct information to the best of my knowledge.
 PLEASE SIGN HERE: (PLEASE NOTE: YOU MUST CALL THE GAS COMPANY FOR RESULTS)

John Stewart

ADDITIONAL REMARKS & NOTES	
Also on Plat _____	Well # _____ Spring # _____
<u>WELL</u>	
Field pH: <u>7.15</u>	

Page / of /

Sample Identification	ESL#	Sample Type		Matrix	Number of Containers	Container Type/ Preservative	Analysis Requested
		Date	Grab				
BRIAN STEWART WELL	0937547	12-29-09	1300	AQ	2	Plastic Liter No Preservative	pH, Spec. Cond., Alkalinity, Chloride, Sulfate, T. Suspended Solids, T. Dissolved Solids
				AQ	1	Plastic Pint pH < 2, HNO ₃	Fe, Mn, Ca, Ba, Mg, Na, K, Sr
				AQ	1	Glass Liter pH < 2, HCl	Hardness
				AQ	1	40 ml Glass Vial Zinc Acetate / NaOH	Oil & Grease
				AQ	1	Sterile Plastic Na Thio Sulfate	Methane / Ethane
	I			AQ	3	Vials	Total Coliform / E-Coli

THE UNDERSIGNED PURCHASER HEREBY AGREES TO PAY SERVICE CHARGES ON ACCOUNTS OVER 31 DAYS OLD.

1. THE SERVICE CHARGES WILL ACCRUE AT THE RATE OF \$168 PER MONTH (1% PER ANNUM OR THE MAXIMUM ALLOWED BY LAW).

2. THE UNDERSIGNED PURCHASER AGREES TO PAY IN THE EVENT HIS ACCOUNT BECOMES DELINQUENT AND IS TURNED OVER TO ANY ATTORNEY FOR COLLECTION. REASONABLE ATTORNEY'S FEES PLUS ALL COURT AND ATTENDANT COLLECTION COSTS.

Signed by (Signature) Robert L. Smith Date/TIME 12-29-09 1300

Relinquished By (Signature) Robert L. Smith Date/TIME 12-29-09 1630

ReInquired By (Signature)

Date/TIME Received By (Signature) Date/TIME

ReInquired By (Signature)

Date/TIME Received By (Signature) Date/TIME

ReInquired By (Signature)

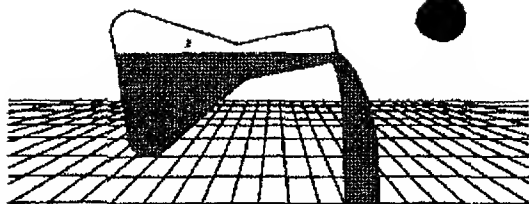
Date/TIME Received By (Signature) Date/TIME

PRESERVATION N CONTAINER N TEMP 54°C(9)/N/N/A

STEWART, NANCY UNIT #6
(Washington / Mount Pleasant)

Client Information:
Company Name: Range Resources
Address: PO Box 235
 Yatesboro, PA 16263
Contact person: Mr. Ken Moorehead
Phone/Fax: 724-743-6770 / 724-743-6791

REQUESTED BY DIANE D'LOSS
REC'D: 12/22/2009 NEED: ASAP



ENVIRONMENTAL
SERVICE LABORATORIES, INC.
 1803 Philadelphia Street, Indiana, PA 15701
 (724)-463-TEST FAX (724)-465-4209

Report of Analysis

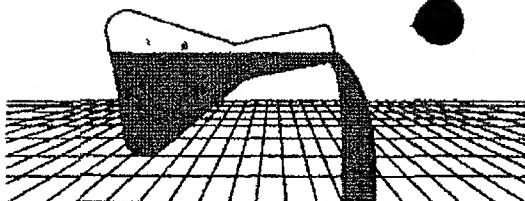
Name:	Range Resource- Appalachia, LLC -	Sample ID#:	09 37547
	Yatesboro	Sample Type:	Water
	PO Box 235	Sample Source:	Inside Faucet Kitchen
Sample Start Date:	Yatesboro, PA 16263	Sampler:	RS (Lab employee)
Receipt Date:	12/29/2009 1:00 PM	Client Sample ID:	Brian Stewart Drilled Well
Report Date:	12/30/2009 11:14 AM	Well Depth:	150'
Sample Site:	1/13/2010	Purveyor:	Brian Stewart
	Stewart, Nancy Unit #6	Address:	70 Caldwell Rd
		City/State/Zip:	Hickory, PA 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
Alkalinity to pH=4.5	BF	01/05/2010	157	mg/l as CaCO ₃	SM2320B	20
Chloride	BF	01/06/2010	11.3	mg/l	SM4500CIC	1.0
Sulfate ASTM	ZTR	01/04/2010	40	mg/l	D516-02	5
Barium - ICP	GJT	01/12/2010	0.147	mg/l	200.7/6010	0.005
Calcium - ICP	GJT	01/12/2010	55.876	mg/l	200.7/6010	0.500
Hardness	GJT	01/12/2010	204	mg/l	SM2340B	5
Iron - ICP	GJT	01/12/2010	0.077	mg/l	200.7/6010	0.010
Magnesium-ICP	GJT	01/12/2010	15.658	mg/l	200.7/6010	0.500
Manganese - ICP	GJT	01/12/2010	0.005	mg/l	200.7/6010	0.005
Potassium - ICP	GJT	01/12/2010	1.444	mg/l	200.7/6010	0.500
Sodium - ICP	GJT	01/12/2010	22.322	mg/l	200.7/6010	0.500
Strontium - ICP	GJT	01/12/2010	0.569	mg/l	200.7/6010	0.010
E. Coli A/P	ER	12/31/2009	Absent	CFU/100ml	COLILERT	1
Total Coliform A/P	ER	12/31/2009	Present	CFU/100ml	COLILERT	1
Ethane	CL	12/30/2009	ND	mg/l	GCFID	2.50
Methane	CL	12/30/2009	ND	mg/l	GCFID	2.50
Oil and Grease - HEM	CLM	01/12/2010	ND	mg/l	1664A	5.0
pH- Field	RS	12/29/2009	7.15	SU	SM 4500H-B	0.00
Specific Conductance	LL	12/30/2009	427	uS/cm	SM 2510B	1
Total Dissolved Solids (TDS)	LMB	01/04/2010	265	mg/l	SM2540C	25

ND=Not Detected

Note: DEP Certification #s 32-00382

Data Qualifiers: D = The reported value is from dilution E = Estimated value S = Surrogate out of control limits
 R = Sample received out of holding time H = Sample analyzed out of holding time C = Sample received in incorrect container
 B = Analyte was detected in both sample and methods blank X = User defined data qualifier



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Report of Analysis

Name:	Range Resource- Appalachia, LLC -	Sample ID#:	09 37547
	Yatesboro	Sample Type:	Water
	PO Box 235	Sample Source:	Inside Faucet Kitchen
Sample Start Date:	Yatesboro, PA 16263	Sampler:	RS (Lab employee)
Receipt Date:	12/29/2009 1 00 PM	Client Sample ID:	Brian Stewart Drilled Well
Report Date:	12/30/2009 11:14 AM	Well Depth:	150'
Sample Site:	1/13/2010	Purveyor:	Brian Stewart
	Stewart, Nancy Unit #6	Address:	70 Caldwell Rd
		City/State/Zip:	Hickory, PA 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
Total Suspended Solids	LMB	01/04/2010	ND	mg/l	SM2540D	5
43) Styrene	RO	12/31/2009	ND	ug/L	624/8260B	1 00
A12) Acrylonitrile	RO	12/31/2009	ND	ug/L	624/8260B	5 00

Comments:

ND=Not Detected

Note:

DEP Certification #s 32-00382

Data Qualifiers:

D = The reported value is from dilution E = Estimated value S = Surrogate out of control limits
R = Sample received out of holding time H = Sample analyzed out of holding time C = Sample received in incorrect container
B = Analyte was detected in both sample and methods blank X = User defined data qualifier

Environmental Services Laboratories, Inc
303 Philadelphia Street
Indiana, PA 15701

Today's Date: 20-Jan-10

Sampled by: RS

Range Resources - Appalachia, LLC.

ATTN: Mark Hunneshagen

FAX# 724-743-8790

WELL DEPTHS

Well ID Name: STEWART, NANCY UNIT #6

Purveyor Name:	Well Depth/ Spring:	Date Sample Derived:	Comments:	Results Requested
Marjorie Curran	25' - 30'	1/18/2010	Well Pressure tank	Yes
Marjorie Curran	N/A	1/18/2010	Spring Balled from spring	Yes

Plat Complete: YES

This information is provided for your review and confirmation that all samples on the above mentioned plat have been taken.

Should you have any questions and / or concerns, please feel free to contact
Kathy Brown at Environmental Services Laboratories, Inc. @ 724-463-8378

SL ID#: 10 DISCO
 Well Name & #: STEWART, NANCY UNIT #6
 Committee: ROUGE
 Invented By: RS
 Date Invented: 1-18-10 1245
 Person Interviewed: MARJORIE



PROPERTY OWNER	REPORTED QUALITY PRIOR TO TREATMENT	TREATMENT
Name: MARJORIE CURRAN	No Yes	<input type="checkbox"/> NONE
Address: 50 CAIDWELL RD	staining <input checked="" type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> softening <input type="checkbox"/> pH adjust
Address: HICKORY PA 15340	bad taste <input checked="" type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> chlorination <input type="checkbox"/>
Phone #: 724-356-7755	odor <input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> iron removal
RESIDENT	cloudiness <input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> in-line sediment filter
Name:	oily film <input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> charcoal filter
Address:	never go dry <input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> UV light
Address:	PUMP DATA	<input checked="" type="checkbox"/> submersible <input type="checkbox"/> jet
Phone:	<input type="checkbox"/> none <input type="checkbox"/> gas piston	<input type="checkbox"/> windmill <input type="checkbox"/> other

SUPPLY TYPE	WATER USE	WELL DATA	SPRING DATA
<input checked="" type="checkbox"/> well	<input checked="" type="checkbox"/> domestic	<input type="checkbox"/> drilled	<input type="checkbox"/> gravity feed
<input type="checkbox"/> spring	<input type="checkbox"/> husbandry	well depth: static level:	<input checked="" type="checkbox"/> pump
<input type="checkbox"/> cistern	<input type="checkbox"/> irrigation	25' 30'	<input type="checkbox"/> spring house
<input type="checkbox"/> city supply	<input type="checkbox"/> other		<input type="checkbox"/> underground vault

Requested copy of analysis? ☒ Yes ☐ No

SAMPLED: ☒ Before treatment ☐ After treatment ☐ No treatment

SAMPLING POINT LOCATION: ☐ inside faucet (specific) ☐ outside faucet (specific) ☒ pressure tank ☐ bailed from well ☐ bailed from spring ☐ wellhead ☐ overflow pipe ☐ pump house

Is it possible to run your water for 30 minutes to complete a timed flow test? ☒ Yes ☐ No If no, please explain:

How many water sources do you have? List all.

Are your water source or sources located on your property?

I hereby acknowledge that I have supplied the correct information to the best of my knowledge.
 PLEASE SIGN HERE:

X Marjorie Curran

ADDITIONAL REMARKS & NOTES

Is on Plat

Well # Spring #

WELL

Field pH 7.04

2

ID#:	10 01503	WATER SUPPLY ID:	
Client Name & #:	STEWART, NANCY UNIT #6		
Interviewer:	RANGE		
Entered By:	RS	Date Interviewed:	1-18-10 1315
Person Interviewed:	MARTORIE		



PROPERTY OWNER	REPORTED QUALITY PRIOR TO TREATMENT	TREATMENT
name: MARTORIE CURRAN	No Yes	<input checked="" type="checkbox"/> NONE
address: 50 CAIDWELL RD.	staining <input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> softening <input type="checkbox"/> pH adjust
address: HICKORY, PA 15340	bad taste <input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> chlorination <input type="checkbox"/>
phone #: 724-356-7755	odor <input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> iron removal
RESIDENT	cloudiness <input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> in-line sediment filter
name:	oily film <input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> charcoal filter
address:	ever go dry <input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> UV light
address:	PUMP DATA	<input checked="" type="checkbox"/> submersible <input checked="" type="checkbox"/> jet
phone:	<input type="checkbox"/> none <input type="checkbox"/> gas piston	<input type="checkbox"/> windmill <input type="checkbox"/> other

SUPPLY TYPE	WATER USE	WELL DATA	SPRING DATA
<input checked="" type="checkbox"/> well	<input checked="" type="checkbox"/> domestic	<input type="checkbox"/> drilled <input type="checkbox"/> dug	<input type="checkbox"/> gravity feed
<input type="checkbox"/> spring	<input type="checkbox"/> handpump	well depth: static level	<input type="checkbox"/> pump
<input type="checkbox"/> cistern	<input type="checkbox"/> irrigation		<input checked="" type="checkbox"/> spring house
<input type="checkbox"/> city supply	<input type="checkbox"/> other		<input type="checkbox"/> underground vault

QUESTIONS	SAMPLING POINT LOCATION
Requested copy of analysis? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
SAMPLED:	
<input type="checkbox"/> Before treatment	<input type="checkbox"/> inside faucet (specific):
<input type="checkbox"/> After treatment	<input type="checkbox"/> outside faucet (specific):
<input checked="" type="checkbox"/> No treatment	<input type="checkbox"/> pressure tank
	<input type="checkbox"/> bailed from well
	<input checked="" type="checkbox"/> bailed from spring
	<input type="checkbox"/> wellhead
	<input type="checkbox"/> overflow pipe
	<input type="checkbox"/> pump house

Is it possible to run your water for 30 minutes to complete a timed flow test? ☒ Yes ☐ No If no, please explain:

How many water sources do you have? List all.

2

Is your water source or sources located on your property?

☒ Yes ☐ No If no, please explain:

I hereby acknowledge that I have supplied the correct information to the best of my knowledge.
PLEASE SIGN HERE:

X Margaret Curran

ADDITIONAL REMARKS & NOTES

Also on Plat _____

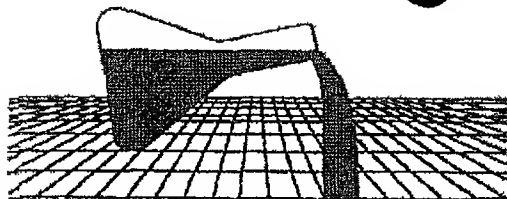
Well # _____ Spring # _____

Spring

Field pH: 6.43

[illegible]

[illegible]



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Report of Analysis

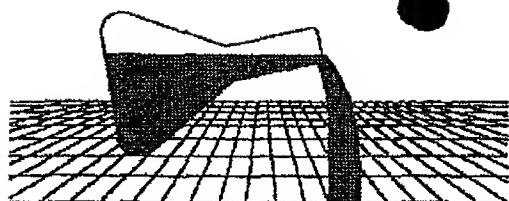
Client Name:	Range Resource- Appalachia, LLC -	Sample ID#:	10 01502
	Yatesboro	Sample Type:	Water
	PO Box 235	Sample Source:	Pressure Tank
Sample Start Date:	Yatesboro, PA 16263	Sampler:	RS (Lab employee)
Receipt Date:	1/18/2010 12:45 PM	Client Sample ID:	Marjorie Curran Dug Well
Report Date:	1/19/2010 10:57 AM	Well Depth:	25'-30'
Sample Site:	1/27/2010	Purveyor:	Marjorie Curran
	Stewart, Nancy Unit #6	Address:	50 Caldwell Rd
		City/State/Zip:	Hickory, PA 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
Alkalinity to pH=4.5	ZTR	01/27/2010	156	mg/l as CaCO3	SM2320B	20
Chloride	BF	01/24/2010	11.0	mg/l	SM4500CIC	1.0
Sulfate ASTM	ZTR	01/21/2010	38	mg/l	D516-02	10
Barium - ICP	DRM	01/24/2010	0.025	mg/l	200.7/6010	0.005
Calcium - ICP	DRM	01/24/2010	54.547	mg/l	200.7/6010	0.500
Hardness	DRM	01/24/2010	198	mg/l	SM2340B	5
Iron - ICP	DRM	01/24/2010	0.060	mg/l	200.7/6010	0.010
Magnesium-ICP	DRM	01/24/2010	15.070	mg/l	200.7/6010	0.500
Manganese - ICP	DRM	01/24/2010	ND	mg/l	200.7/6010	0.005
Potassium - ICP	DRM	01/24/2010	1.126	mg/l	200.7/6010	0.500
Sodium - ICP	DRM	01/24/2010	14.094	mg/l	200.7/6010	0.500
Strontium - ICP	DRM	01/24/2010	0.191	mg/l	200.7/6010	0.010
E. Coli A/P	ER	01/20/2010	Present	CFU/100ml	COLILERT	1
Total Coliform A/P	ER	01/20/2010	Present	CFU/100ml	COLILERT	1
Ethene	CL	01/20/2010	ND	mg/l	GCFID	2.50
Methane	CL	01/20/2010	ND	mg/l	GCFID	2.50
Oil and Grease - HEM	CLM	01/22/2010	ND	mg/l	1664A	5.0
pH- Field	RS	01/18/2010	7.04	SU	SM 4500H-B	0.00
Specific Conductance	LL	01/19/2010	387	uS/cm	SM 2510B	1
Total Dissolved Solids (TDS)	LMB	01/20/2010	203	mg/l	SM2540C	25

ND=Not Detected

Note: DEP Certification # 32-00382

Notes Qualifiers: D = The reported value is from dilution. E = Estimated value. S = Surrogate out of control limits.
R = Sample received out of holding time. H = Sample analyzed out of holding time. C = Sample received in incorrect container.
B = Analyte was detected in both sample and methods blank. X = User defined data qualifier.



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Report of Analysis

Client Name:	Ranga Resource- Appalachia, LLC -	Sample ID#:	10 01502
	Yatesboro	Sample Type:	Water
	PO Box 235	Sample Source:	Pressure Tank
Sample Start Date:	Yatesboro, PA 16263	Sampler:	RS (Lab employee)
Receipt Date:	1/18/2010 12:45 PM	Client Sample ID:	Marjorie Curran Dug Well
Report Date:	1/19/2010 10:57 AM	Well Depth:	25'-30'
Sample Site:	1/27/2010	Furveyor:	Marjorie Curran
	Stewart, Nancy Unit #6	Address:	50 Caldwell Rd
		City/State/Zip:	Hickory, PA 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
Total Suspended Solids	LMB	01/20/2010	ND	mg/l	SM2540D	5
43) Styrene	RO	01/22/2010	ND	ug/L	624/8260B	1.00
A12) Acrylonitrile	RO	01/22/2010	ND	ug/L	624/8260B	5.00

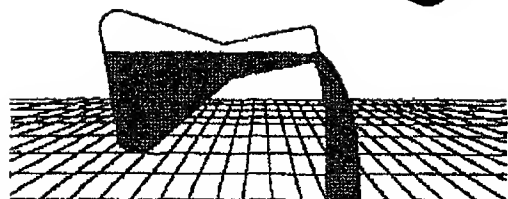
Comments:

ND=Not Detected

Note: DSP Certification #s 32-00382

Data Qualifiers:

D = The reported value is from dilution. E = Estimated value. S = Surrogate out of control limits.
R = Sample received out of holding time. H = Sample analyzed out of holding time. C = Sample received in incorrect container.
B = Analyte was detected in both sample and methods blank. X = User defined data qualifier.



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Report of Analysis

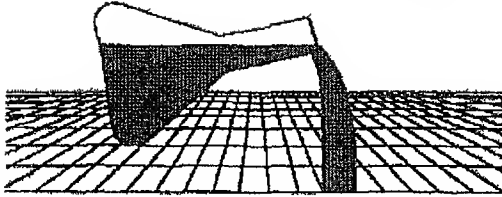
Name:	Range Resource- Appalachia, LLC - Yatesboro PO Box 235	Sample ID#:	10 01503
Sample Start Date:	Yatesboro, PA 16263	Sample Type:	Water
Receipt Date:	1/18/2010 1:15 PM	Sample Source:	Bailed from Spring
Report Date:	1/19/2010 10 57 AM	Sampler:	RS (Lab employee)
Sample Site:	1/27/2010	Client Sample ID:	Marjorie Curran Spring
	Stewart, Nancy Unit #6	Purveyor:	Marjorie Curran
		Address:	50 Caldwell Rd
		City/State/Zip:	Hickory, PA 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
Alkalinity to pH=4.5	ZTR	01/27/2010	41	mg/l as CaCO ₃	SM2320B	20
Chloride	BF	01/26/2010	75	mg/l	SM4500CIC	1.0
Sulfate ASTM	ZTR	01/21/2010	32	mg/l	D516-02	10
Barium - ICP	DRM	01/24/2010	0.034	mg/l	200.7/6010	0.003
Calcium - ICP	DRM	01/24/2010	27.167	mg/l	200.7/6010	0.500
Hardness	DRM	01/24/2010	99	mg/l	SM2340B	5
Iron - ICP	DRM	01/24/2010	0.434	mg/l	200.7/6010	0.010
Magnesium-ICP	DRM	01/24/2010	7.581	mg/l	200.7/6010	0.500
Manganese - ICP	DRM	01/24/2010	0.007	mg/l	200.7/6010	0.003
Potassium - ICP	DRM	01/24/2010	1.819	mg/l	200.7/6010	0.500
Sodium - ICP	DRM	01/24/2010	7.739	mg/l	200.7/6010	0.500
Strontium - ICP	DRM	01/24/2010	0.127	mg/l	200.7/6010	0.010
E. Coli A/P	ER	01/20/2010	Present	CFU/100ml	COLILERT	1
Total Coliform A/P	ER	01/20/2010	Present	CFU/100ml	COLILERT	1
Ethane	CL	01/20/2010	ND	mg/l	GCFID	2.50
Methane	CL	01/20/2010	ND	mg/l	GCFID	2.50
Oil and Grease - HEM	CLM	01/25/2010	ND	mg/l	1664A	5.0
pH- Field	RS	01/18/2010	6.43	SU	SM 4500H-B	0.00
Specific Conductance	LL	01/19/2010	198	uS/cm	SM 2510B	1
Total Dissolved Solids (TDS)	LMB	01/20/2010	130	mg/l	SM2540C	25
Total Suspended Solids	LMB	01/20/2010	ND	mg/l	SM2540D	5

ND=Not Detected

Note: DEP Certification #s 32-00382

Test Qualifiers: D = The reported value is from dilution. E = Estimated value. S = Surrogate out of control limits.
 R = Sample received out of holding time. H = Sample analyzed out of holding time. C = Sample received in incorrect container.
 B = Analyte was detected in both sample and methods blank. X = User defined data qualifier



ENVIRONMENTAL
SERVICE LABORATORIES, INC.
803 Philadelphia Street, Indiana, PA 15701
724-463-TEST FAX (724)-465-4209

Report of Analysis

Client Name:	Range Resource- Appalachia, LLC -	Sample ID#:	10 01503
	Yatesboro	Sample Type:	Water
	PO Box 235	Sample Source:	Bailed from Spring
Sample Start Date:	Yatesboro, PA 16263	Sampler:	RS (Lab employee)
Receipt Date:	1/18/2010 1:15 PM	Client Sample ID:	Marjorie Curran Spring
Report Date:	1/19/2010 10:57 AM	Purveyor:	Marjorie Curran
Sample Site:	1/27/2010	Address:	50 Caldwell Rd
	Stewart, Nancy Unit #6	City/State/Zip:	Hickory, PA 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
43) Styrene	RO	01/22/2010	ND	ug/L	624/8260B	1.00
A12) Acrylonitrile	RO	01/22/2010	ND	ug/L	624/8260B	5.00

Comments:

ND=Not Detected

Note: DEP Certification #s 32-00382

Data Qualifiers: D = This reported value is from dilution. E = Estimated value. S = Surrogate out of control limits.
R = Sample received out of holding time. H = Sample analyzed out of holding time. C = Sample received in incorrect container.
B = Analyte was detected in both sample and method blank. X = User defined data qualifier.

Environmental Services Laboratories, Inc.
103 Philadelphia Street
Pottsville, PA 17870

Today's Date: 18-Jan-10

Sampled by: RS

Range Resources - Appalachia, LLC.

ATTN: Mark Hunneshagen

FAX# 724-743-6780

WELL DEPTHS


Well ID Name: STEWART, NANCY UNIT #8 resample

Purveyor Name:	Well Depth/ Spring:	Date Sample Derived:	Comments:	Results Requested
Robert Hinerman	180'	1/15/2010	Well Pressure tank	Yes
Robert Hinerman	N/A	1/15/2010	Spring Bailed from trough	Yes

Plat Complete: YES - Keith Skirpan refused to be resampled

This information is provided for your review and confirmation that all samples on the above mentioned plat have been taken.

Should you have any questions and / or concerns, please feel free to contact
Kathy Brown at Environmental Service Laboratories, Inc. @ 724-463-8378

ESL ID# <u>10 01369</u>		WATER SUPPLY ID		 ENVIRONMENTAL SERVICE LABORATORIES, INC. 1803 Philadelphia Street Indiana, PA 15701 (724) 463-8378 Fax: (724) 463-4209
Well Name & #: <u>STEWART, NANCY #8 "RESAMPLE"</u>				
Permittee: <u>RANGE</u>				
Inventoried By: <u>RS</u>		Date Inventoried: <u>1-15-10 1100</u>		
Person Interviewed: <u>ROBERT</u>				

PROPERTY OWNER	REPORTED QUALITY PRIOR TO TREATMENT	TREATMENT
Name: <u>ROBERT HINERMAN</u>	No Yes	<input type="checkbox"/> NONE <input type="checkbox"/> softening <input type="checkbox"/> pH adjust <input type="checkbox"/> chlorination <input type="checkbox"/> _____ <input type="checkbox"/> iron removal <input type="checkbox"/> in-line sediment filter <input checked="" type="checkbox"/> charcoal filter <input type="checkbox"/> UV light
Address: <u>170 AVELLA RD.</u>	staining <input type="checkbox"/> <input checked="" type="checkbox"/>	
Address: <u>HICKORY, PA 15340</u>	bad taste <input checked="" type="checkbox"/> <input type="checkbox"/>	
Phone #: <u>724-356-7977</u>	odor <input checked="" type="checkbox"/> <input type="checkbox"/>	
RESIDENT	cloudiness <input checked="" type="checkbox"/> <input type="checkbox"/>	
Name: _____	oily film <input checked="" type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> submersible <input type="checkbox"/> jet <input type="checkbox"/> windmill <input type="checkbox"/> other
Address: _____	ever go dry <input checked="" type="checkbox"/> <input type="checkbox"/>	
Address: _____		
Phone: _____	PUMP DATA	
	<input type="checkbox"/> none <input type="checkbox"/> gas piston	

SUPPLY TYPE	WATER USE	WELL DATA	SPRING DATA
<input checked="" type="checkbox"/> well <input type="checkbox"/> spring <input type="checkbox"/> cistern <input type="checkbox"/> city supply	<input checked="" type="checkbox"/> domestic <input type="checkbox"/> husbandry <input type="checkbox"/> irrigation <input type="checkbox"/> other	<input checked="" type="checkbox"/> drilled well depth: <u>180'</u> <input type="checkbox"/> dug static level: _____	<input type="checkbox"/> gravity feed <input type="checkbox"/> pump <input checked="" type="checkbox"/> spring house <input type="checkbox"/> underground vault

Requested copy of analysis? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	SAMPLING POINT LOCATION
SAMPLED:	<input type="checkbox"/> inside faucet: _____ <input type="checkbox"/> outside faucet: _____ <input checked="" type="checkbox"/> pressure tank <input type="checkbox"/> bailed from well <input type="checkbox"/> bailed from spring
<input checked="" type="checkbox"/> Before treatment <input type="checkbox"/> After treatment <input type="checkbox"/> No treatment	<input type="checkbox"/> wellhead <input type="checkbox"/> overflow pipe <input type="checkbox"/> pump house


Is it possible to run your water for 30 minutes to complete a timed flow test? ☒ Yes ☐ No If no, please explain:

How many water sources do you have; List all: 2

Is your water source or sources located on your property? ☒ Yes ☐ No If no, please explain:

I hereby acknowledge that I have supplied the correct information to the best of my knowledge.
 PLEASE SIGN HERE: (PLEASE NOTE: YOU MUST CALL THE GAS COMPANY FOR RESULTS)
Robert Hinerman

ADDITIONAL REMARKS & NOTES	
Also on Plat _____ <div style="text-align: center; font-size: 1.5em;">WELL</div>	Well # _____ Spring # _____ Field pH. <u>7.24</u>

ESL ID# <u>10 01370</u>		WATER SUPPLY ID		 ENVIRONMENTAL SERVICE LABORATORIES, INC. 1803 Philadelphia Street Indiana, PA 15701 (724) 463-8378 Fax: (724) 465-4219		<u>2</u>	
Well Name & #: <u>STEWART, NANCY #8 "RESAMPLE"</u>							
Permittee: <u>RANGE</u>							
Inventoried By: <u>R.S.</u>		Date Inventoried: <u>1-15-10 1145</u>					
Person Interviewed: <u>ROBERT</u>							

PROPERTY OWNER		REPORTED QUALITY PRIOR TO TREATMENT		TREATMENT	
Name: <u>ROBERT MINERMAN</u>		No Yes		<input type="checkbox"/> NONE <input type="checkbox"/> softening <input type="checkbox"/> pH adjust <input type="checkbox"/> chlorination <input type="checkbox"/> _____ <input type="checkbox"/> iron removal <input type="checkbox"/> in-line sediment filter <input type="checkbox"/> charcoal filter <input type="checkbox"/> UV light	
Address: <u>170 AVELLA RD</u>		staining	<input type="checkbox"/> <input type="checkbox"/>		
Address: <u>HICKORY, PA 15340</u>		bad taste	<input type="checkbox"/> <input type="checkbox"/>		
Phone #: <u>724-356-7977</u>		odor	<input type="checkbox"/> <input type="checkbox"/>		
RESIDENT		cloudiness	<input type="checkbox"/> <input type="checkbox"/>		
Name:		oily film	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> submersible <input type="checkbox"/> jet <input checked="" type="checkbox"/> windmill <input type="checkbox"/> other	
Address:		ever go dry	<input type="checkbox"/> <input type="checkbox"/>		
Address:		PUMP DATA			
Phone:		<input type="checkbox"/> none <input type="checkbox"/> gas piston			

SUPPLY TYPE		WATER USE		WELL DATA		SPRING DATA	
<input type="checkbox"/> well <input checked="" type="checkbox"/> spring <input type="checkbox"/> cistern <input type="checkbox"/> city supply		<input type="checkbox"/> domestic <input checked="" type="checkbox"/> husbandry <input type="checkbox"/> irrigation <input type="checkbox"/> other		<input type="checkbox"/> drilled <input type="checkbox"/> dug well depth: static level:		<input checked="" type="checkbox"/> gravity feed <input type="checkbox"/> pump <input type="checkbox"/> spring house <input type="checkbox"/> underground vault	

Requested copy of analysis? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		SAMPLING POINT LOCATION	
SAMPLED: <input type="checkbox"/> Before treatment <input type="checkbox"/> After treatment <input checked="" type="checkbox"/> No treatment		<input type="checkbox"/> inside faucet: _____ <input type="checkbox"/> outside faucet: _____ <input type="checkbox"/> pressure tank <input type="checkbox"/> bailed from well <input checked="" type="checkbox"/> bailed from spring <u>CEMENT TROUGH</u>	

Is it possible to run your water for 30 minutes to complete a timed flow test? ☐ Yes ☒ No If no, please explain:

How many water sources do you have: List all: 2

Is your water source or sources located on your property? ☒ Yes ☐ No If no, please explain:

I hereby acknowledge that I have supplied the correct information to the best of my knowledge.
 PLEASE SIGN HERE: (PLEASE NOTE: YOU MUST CALL THE GAS COMPANY FOR RESULTS)
Robert Minerman

ADDITIONAL REMARKS & NOTES	
Also on Plat _____	Well # _____ Spring # _____
<u>SPRING</u>	
Field pH: <u>7.37</u>	

**ENVIRONMENTAL
SERVICE LABORATORIES INC.**

1805 Philadelphia Street
Indians, PA 15701

Sample Request & Chain of Custody

1 of 2

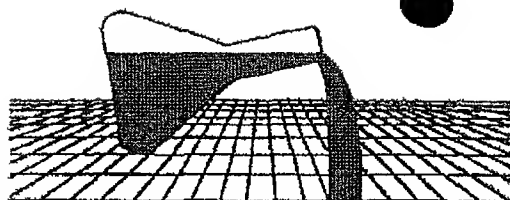
Sample Identification	ESL#	Sample Type		Matrix	Number of Containers	Container Type/Preservative	Analysis Requested
		Date	Grab				
ROBERT HINERMAN	10 01369	1-15-10	1100	AQ	2	Plastic Liter	pH, Spec. Cond., Alkalinity, Chloride, Sulfate T. Suspended Solids, T. Dissolved Solids
WELL				AQ	1	No Preservative	Fe, Mn, Ca, Ba, Mg, Na, K, Sr
				AQ	1	Plastic Pint	Hardness
				AQ	1	pH < 2, HNO ₃	Oil & Grease
				AQ	1	Glass Liter	
				AQ	1	pH < 2, HCl	
				AQ	1	40 ml Glass Vial	Methane / Ethane
				AQ	1	Zinc Acetate / NaOH	
				AQ	1	Sterile Plastic	Total Coliform / E-Coli
				AQ	1	Na Thio Sulfate	
				AQ	1	3 Vials	Acrylonitrile, Styrene
<p>Project ID: STEWART, NANCY UNIT #8 resample (Washington / Mount Pleasant)</p> <p>Client Information Company Name: Range Resources Address: PO Box 235 Yatesboro, PA 16263 Contact person: Mr. Ken Moorehead Phone/Fax: 724-743-6770 / 724-743-6791 REQUESTED BY DIANE D'LOSS</p>							

THE UNDERSIGNED PURCHASER HEREBY AGREES TO PAY SERVICE CHARGES ON ACCOUNTS OVER 30 DAYS OLD			
1. THESE SERVICE CHARGES WILL ACCRUE AT THE RATE OF 1.5% PER MONTH (18% PER ANNUM OR THE MAXIMUM ALLOWED BY LAW)	2. THE UNDERSIGNED PURCHASER AGREES TO PAY, IN THE EVENT HIS ACCOUNT BECOMES DELINQUENT AND IS TURNED OVER TO ANY ATTORNEY FOR COLLECTION, REASONABLE ATTORNEY'S FEES PLUS ALL COURT AND ATTORNEY COLLECTION COSTS	Signed By: (Signature) Robert H. Hinerman	Date/Time Received By: (Signature) 1-15-10 1415
SIGNED BY: (Signature) Robert H. Hinerman		Date/Time Received By: (Signature) 1-15-10 1415	Date/Time 1/15/10 1451
Relinquished By: (Signature)	Date/Time Relinquished By: (Signature)	Date/Time	Date/Time
Relinquished By: (Signature)	Date/Time Relinquished By: (Signature)	Date/Time	Date/Time
PRESERVATION Y/N CONTAINER Y/N TEMP ≤ 4°C Y/N / NA			

Sample Request & Chain of Custody

2042

STEWART, NANCY UNIT #8 resample
(Washington / Mount Pleasant)



ENVIRONMENTAL
SERVICE LABORATORIES, INC.
 803 Philadelphia Street, Indiana, PA 15701
 724-463-TEST FAX (724)-465-4209

Report of Analysis

Name: Range Resource- Appalachia, LLC -
 Yatesboro
 PO Box 235
 Sample Start Date: Yatesboro, PA 16263
 Receipt Date: 1/15/2010 11:00 AM
 Report Date: 1/15/2010 2:35 PM
 Sample Site: 1/27/2010
 Stewart, Nancy Unit #8 - Resample

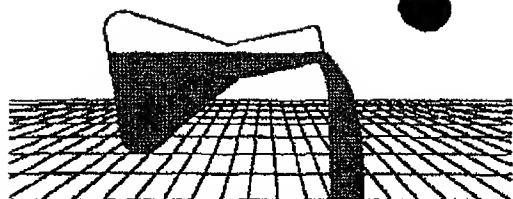
Sample ID#: 10 01369
 Sample Type: Water
 Sample Source: Pressure Tank
 Sampler: RS (Lab employee)
 Client Sample ID: Robert Hinerman Well
 Well Depth: 180'
 Purveyor: Robert Hinerman
 Address: 170 Avella Rd
 City/State/Zip: Hickory PA 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
Alkalinity to pH=4.5	BF	01/21/2010	200	mg/l as CaCO3	SM2320B	20
Chloride	BF	01/24/2010	98.8	mg/l	SM4500CIC	1.0
Sulfate ASTM	ZTR	01/21/2010	38	mg/l	D516-02	10
Barium - ICP	GJT	01/18/2010	0.201	mg/l	200.7/6010	0.005
Calcium - ICP	GJT	01/18/2010	89.279	mg/l	200.7/6010	0.500
Hardness	GJT	01/18/2010	355	mg/l	SM2340B	5
Iron - ICP	GJT	01/18/2010	0.059	mg/l	200.7/6010	0.010
Magnesium-ICP	GJT	01/18/2010	32.094	mg/l	200.7/6010	0.500
Manganese - ICP	GJT	01/18/2010	0.442	mg/l	200.7/6010	0.005
Potassium - ICP	GJT	01/18/2010	1.804	mg/l	200.7/6010	0.500
Sodium - ICP	GJT	01/18/2010	46.799	mg/l	200.7/6010	0.500
Strontium - ICP	GJT	01/20/2010	0.412	mg/l	200.7/6010	0.010
E. Coli A/P	ER	01/16/2010	Absent	CFU/100ml	COLILERT	1
Total Coliform A/P	ER	01/16/2010	Absent	CFU/100ml	COLILERT	1
Ethane	CL	01/18/2010	ND	mg/l	GCFID	2.50
Methane	CL	01/18/2010	ND	mg/l	GCFID	2.50
Oil and Grease - HEM	CLM	01/18/2010	ND	mg/l	1664A	5.0
pH- Field	RS	01/14/2010	7.24	SU	SM 4500H-B	0.00
Specific Conductance	LL	01/19/2010	786	uS/cm	SM 2510B	1
Total Dissolved Solids (TDS)	SCZ	01/18/2010	409	mg/l	SM2540C	25

ND=Not Detected

Note: DEP Certification #s 32-00382

Data Qualifiers: D = The reported value is from dilution. E = Estimated value. S = Surrogate out of control limits.
 R = Sample received out of holding time. H = Sample analyzed out of holding time. C = Sample received in incorrect container.
 B = Analyte was detected in both sample and methods blank X = User defined data qualifier.



ENVIRONMENTAL
SERVICE LABORATORIES, INC.
803 Philadelphia Street, Indiana, PA 15701
724-463-TEST FAX (724)-465-4209

Report of Analysis

Name:	Range Resource- Appalachia, LLC -	Sample ID#:	10 01369
	Yatesboro	Sample Type:	Water
	PO Box 235	Sample Source:	Pressure Tank
Sample Start Date:	Yatesboro, PA 16263	Sampler:	RS (Lab employee)
Receipt Date:	1/15/2010 11:00 AM	Client Sample ID:	Robert Hinerman Well
Report Date:	1/15/2010 2:35 PM	Well Depth:	180'
Sample Site:	1/27/2010	Purveyor:	Robert Hinerman
	Stewart, Nancy Unit #8 - Resample	Address:	170 Avella Rd
		City/State/Zip:	Hickory PA 15340

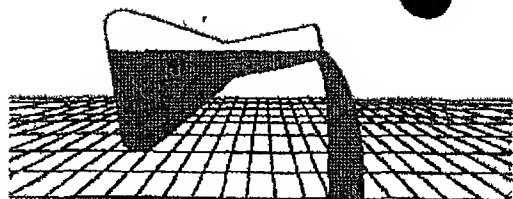
Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
Total Suspended Solids	SZC	01/18/2010	ND	mg/l	8M2540D	5
43) Styrene	RO	10/18/2010	ND	ug/L	624/8260B	1.00
A12) Acrylonitrile	RO	10/18/2010	ND	ug/L	624/8260B	5.00

Comments:

ND=Not Detected

Note: DEP Certification #s 32-00382

Data Qualifiers: D = The reported value is from dilution. E = Estimated value. S = Surrogate out of control limits.
R = Sample received out of holding time. H = Sample analyzed out of holding time. C = Sample received in incorrect container
B = Analyte was detected in both sample and methods blank. X = User defined data qualifier.



ENVIRONMENTAL

SERVICE LABORATORIES, INC.

803 Philadelphia Street, Indiana, PA 15701

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Report of Analysis

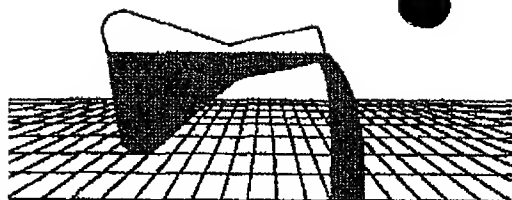
Name:	Range Resource- Appalachia, LLC - Yatesboro PO Box 235 Yatesboro, PA 16263	Sample ID#:	10 01370
Sample Start Date:	1/15/2010 11:45 AM	Sample Type:	Water
Receipt Date:	1/15/2010 2:35 PM	Sample Source:	Barled from Spring Cement Trough
Report Date:	1/27/2010	Sampler:	RS (Lab employee)
Sample Site:	Stewart, Nancy Unit #8 - Resample	Client Sample ID:	Robert Hinerman Spring
		Purveyor:	Robert Hinerman
		Address:	170 Avella Rd
		City/State/Zip:	Hickory PA 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
Alkalinity to pH=4.5	BF	01/21/2010	134	mg/l as CaCO3	SM2320B	20
Chloride	BF	01/24/2010	52.4	mg/l	SM4500CIC	10
Sulfate ASTM	ZTR	01/21/2010	36	mg/l	D516-02	10
Barium - ICP	GJT	01/18/2010	0.035	mg/l	200.7/6010	0.005
Calcium - ICP	GJT	01/18/2010	64.797	mg/l	200.7/6010	0.500
Hardness	GJT	01/18/2010	216	mg/l	SM2340B	5
Iron - ICP	GJT	01/18/2010	ND	mg/l	200.7/6010	0.010
Magnesium-ICP	GJT	01/18/2010	13.117	mg/l	200.7/6010	0.500
Manganese - ICP	GJT	01/18/2010	ND	mg/l	200.7/6010	0.005
Potassium - ICP	GJT	01/18/2010	1.048	mg/l	200.7/6010	0.500
Sodium - ICP	GJT	01/18/2010	17.589	mg/l	200.7/6010	0.500
Strontium - ICP	GJT	01/20/2010	0.288	mg/l	200.7/6010	0.010
E. Coli A/P	ER	01/16/2010	Present	CFU/100ml	COLILBERT	1
Total Coliform A/P	ER	01/16/2010	Present	CFU/100ml	COLILBERT	1
Ethane	CL	01/18/2010	ND	mg/l	GCFID	2.50
Methane	CL	01/18/2010	ND	mg/l	GCFID	2.50
Oil and Grease - HEM	CLM	01/18/2010	ND	mg/l	1664A	5.0
pH- Field	RS	01/14/2010	7.37	SU	SM 4500H-B	0.00
Specific Conductance	LL	01/19/2010	493	uS/cm	SM 2510B	1
Total Dissolved Solids (TDS)	SCZ	01/18/2010	261	mg/l	SM2540C	25
Total Suspended Solids	SZC	01/18/2010	ND	mg/l	SM2540D	5

ND=Not Detected

Note: DEP Certification #s 32-00382

Data Qualifiers: D = The reported value is from dilution. E = Estimated value. S = Surrogate out of control limits.
R = Sample received out of holding time. H = Sample analyzed out of holding time. C = Sample received in incorrect container.
B = Analyte was detected in both sample and methods blank X = User defined data qualifier.



ENVIRONMENTAL
SERVICE LABORATORIES, INC.
808 Philadelphia Street, Indiana, PA 15701
724-463-TEST FAX (724)-465-4209

Report of Analysis

Name:	Range Resource- Appalachia, LLC - Yatesboro PO Box 235	Sample ID#:	10 01370
Sample Start Date:	Yatesboro, PA 16263	Sample Type:	Water
Receipt Date:	1/15/2010 11:45 AM	Sample Source:	Bailed from Spring Cement Trough
Report Date:	1/15/2010 2:35 PM	Sampler:	RS (Lab employee)
Sample Site:	1/27/2010	Client Sample ID:	Robert Hinerman Spring
	Stewart, Nancy Unit #8 - Resample	Purveyor:	Robert Hinerman
		Address:	170 Avella Rd
		City/State/Zip:	Hickory PA. 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
43) Styrene	RO	01/18/2010	ND	ug/L	624/8260B	1.00
A12) Acrylonitrile	RO	01/18/2010	ND	ug/L	624/8260B	5.00

Comments:

ND=Not Detected

Note: DEP Certification #s 32-D0382

Data Qualifiers: D = The reported value is from dilution. E = Estimated value. S = Surrogate out of control limits.
R = Sample received out of holding time. H = Sample analyzed out of holding time. C = Sample received in incorrect container
B = Analyte was detected in both sample and methods blank X = User defined data qualifier.

EXHIBIT B

Hosking, Richard

From Hosking, Richard
Sent Thursday, February 18, 2010 10:33 AM
To 'Deanna Tanner'
Subject FW: report (875036-1 02/18/2010 09:40:59 AM)
Attachments PI-#2318715-v1-report_(875036-1_02_18_2010_09_40_59_AM).pdf

Dee

Attached are the water testing results from the re-testing of the water purveyors and impoundment associated with the Nancy Stewart #8 well. These are the analyses that the DEP requested that Range undertake in response to the Hallowichs' complaints. Note the broad range of VOCs tested, and that both acrylonitrile and styrene are non-detect in all instances (all wells, springs and in the impoundment). Please let me know if you have any questions.

Rick

Richard W. Hosking
K&L Gates LLP
Henry W. Oliver Building
535 Smithfield Street
Pittsburgh, Pa 15222
Phone 412-355-8612
Fax 412-355-6501
E-mail richard.hosking@klgates.com
Website www.klgates.com

From: Byers, Kellie
Sent: Thursday, February 18, 2010 9:44 AM
To: Hosking, Richard
Subject: report (875036-1 02/18/2010 09:40:59 AM)



PI-#2318715-v1-re
port_(875036-

**ENVIRONMENTAL
SERVICE LABORATORIES INC.**

1903 Philadelphia Street
Indiana, PA 15701

Sample Request & Chain of Custody

Page 1 of 2

Sample Identification	ESL#	Sample Type		Matrix	Number of Containers	Container Type/ Preservative	Analysis Requested
		Date	Grab				
MARJORIE CURRAN WELL	10 02807 +	1-28-10	1145	AQ	1	Plastic Pint pH < 2, HNO ₃	Al, Sb, As, Ba, Be, Cd, Ca, Cr, Co, Cu, Fe, Pb, Mg, Mn, Hg, Ni, K, Sa, Ag, Na, Th, V, Zn VOCs (see attached list)
				AQ	1	Vials	K
				AQ	1	Plastic Pint pH < 2, HNO ₃	Fe, Mn, Ca, Ba, Mg, Na, K, Sr Hardness
				AQ	1	Vials	VOCs (see attached list)
MARJORIE CURRAN SPRING	10 02808 +	1-28-10	1200	AQ	1	Plastic Pint pH < 2, HNO ₃	Fe, Mn, Ca, Ba, Mg, Na, K, Sr Hardness
				AQ	1	Vials	VOCs (see attached list)
				AQ	1	Plastic Pint pH < 2, HNO ₃	Fe, Mn, Ca, Ba, Mg, Na, K, Sr Hardness
				AQ	1	Vials	VOCs (see attached list)
BRIAN STEWART WELL	10 02809 +	1-28-10	1230	AQ	1	Plastic Pint pH < 2, HNO ₃	Fe, Mn, Ca, Ba, Mg, Na, K, Sr Hardness
				AQ	1	Vials	VOCs (see attached list)
<p>THE UNDERSIGNED PURCHASER HEREBY AGREES TO PAY SERVICE CHARGES ON ACCOUNTS OVER 31 DAYS OLD</p> <p>1. THESE SERVICE CHARGES WILL ACCRUE AT THE RATE OF 1.12% PER MONTH (12% PER ANNUM OR THE MAXIMUM ALLOWED BY LAW)</p> <p>2. THE UNDERSIGNED PURCHASER AGREES TO PAY, IN THE EVENT HIS ACCOUNT BECOMES DELINQUENT AND IS TURNED OVER TO ANY ATTORNEY FOR COLLECTION, REASONABLE ATTORNEY'S FEES PLUS ALL COURT AND ATTENDANT COLLECTION COSTS.</p> <p>Signed by: (Signature) Robert G. Smith Date/Time 1-28-10 1145</p> <p>Relinquished By: (Signature) Robert G. Smith Date/Time 1-28-10 1715</p> <p>Relinquished By: (Signature) Date/Time</p> <p>Relinquished By: (Signature) Date/Time</p> <p>Relinquished By: (Signature) Date/Time</p>							
<p>RUSH RESULTS</p> <p>STEWART, NANCY</p> <p>Client Information</p> <p>Company/Name: Range Resources</p> <p>Address: PO Box 235</p> <p>Yatesboro, PA 16263</p> <p>Contact person: Mr. Ken Moorehead</p> <p>Phone/Fax: 724-743-6770 / 724-743-6791</p> <p>REQUESTED BY DIANE D'LOSS</p> <p>REC'D: 1/27/2010 NEED: ASAP</p>							

Page 2 of 2

Sample Identification	ESL#	Sample Type		Matrix	Number of Containers	Container Type/Preservative	Analysis Requested
		Date	Grab				
ROBERT HIVERMAN	10 02810	1-28-10	1330	AQ	1	Plastic Pint pH < 2, HNO ₃	Al, Sb, As, Ba, Be, Cd, Ca, Cr, Co, Cu, Fe, Pb, Mg, Mn, Hg, Ni, K, Se, Ag, Na, Th, V, Zn VOCs (see attached list)
WELL	I			AQ	1	Vials	
ROBERT HIVERMAN	10 02811	1-28-10	1415	AQ	1	Plastic Pint pH < 2, HNO ₃	Fe, Mn, Ca, Ba, Mg, Na, K, Sr Hardness VOCs (see attached list)
SPRING	I			AQ	1	Vials	
TRIP BANK	10 02830	1/28/10		AQ	1	Plastic Pint pH < 2, HNO ₃	Fe, Mn, Ca, Ba, Mg, Na, K, Sr Hardness VOCs (see attached list)
RANGE STEWART #	10 02812	1-28-10	1445	AQ	1	Plastic Pint pH < 2, HNO ₃	Fe, Mn, Ca, Ba, Mg, Na, K, Sr Hardness VOCs (see attached list)
IMPOUNDMENT POND	I			AQ	1	Vials	

THE UNDERSIGNED PURCHASER HEREBY AGREES TO PAY SERVICE CHARGES ON ACCOUNTS OVER 31 DAYS OLD

1. THESE SERVICE CHARGES WILL ACCRUE AT THE RATE OF 1 1/2% PER MONTH (18% PER ANNUM OR THE MAXIMUM ALLOWED BY LAW)

2. THE UNDERSIGNED PURCHASER AGREES TO PAY, IN THE EVENT HIS ACCOUNT BECOMES DELINQUENT AND IS TURNED OVER TO ANY ATTORNEY FOR COLLECTION, REASONABLE ATTORNEY'S FEES PLUS ALL COURT AND ATTENDANT COLLECTION COSTS

Signed by: (Signature) Robert H. Spauld Date/Time 1-28-10 1330

Relinquished By: (Signature) Robert H. Spauld Date/Time 1-28-10 1715

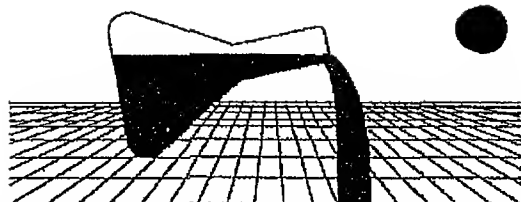
Date/Time Received By: (Signature) [Signature] Date/Time 1/29/10 1121

Date/Time Received By: (Signature) _____ Date/Time _____

Date/Time Received By: (Signature) _____ Date/Time _____

Date/Time Received By: (Signature) _____ Date/Time _____

PRESERVATION (Y/N) _____ CONTAINER (Y/N) _____ TEMP ≤ 4°C (Y/N) _____



ENVIRONMENTAL
SERVICE LABORATORIES, INC.
 1803 Philadelphia Street, Indiana, PA 15701
 (724)-463-TEST FAX (724)-465-4209

Report of Analysis

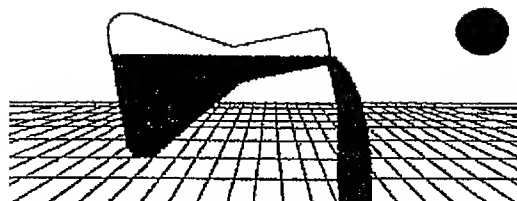
Name:	Range Resource- Appalachia, LLC - Yatesboro PO Box 235	Sample ID#:	10 02807
Sample Start Date:	Yatesboro, PA 16263	Sample Type:	Water
Receipt Date:	1/28/2010 11 45 AM	Sample Source:	Pressure Tank
Report Date:	1/29/2010 10 59 AM	Sampler:	RS (Lab employee)
Sample Site:	2/12/2010	Client Sample ID:	Marjorie Curran Well
	Stewart, Nancy	Well Depth:	25'-30'
		Purveyor:	Marjorie Curran
		Address:	50 Caldwell Rd
		City/State/Zip:	Hickory Pa 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
Aluminum - ICP	GJT	02/03/2010	0.027	mg/l	200.7/6010	0.010
Antimony - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Arsenic-ICP	GJT	02/04/2010	ND	mg/l	200.7/6010	0.010
Barium - ICP	GJT	02/03/2010	0.038	mg/l	200.7/6010	0.005
Beryllium - ICP	GJT	02/04/2010	ND	mg/l	200.7/6010	0.005
Cadmium - ICP	GJT	02/04/2010	ND	mg/l	200.7/6010	0.005
Calcium - ICP	GJT	02/03/2010	58.658	mg/l	200.7/6010	0.500
Chromium - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Cobalt - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Copper - ICP	GJT	02/03/2010	0.035	mg/l	200.7/6010	0.005
Iron - ICP	GJT	02/03/2010	0.098	mg/l	200.7/6010	0.010
Lead-ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Magnesium-ICP	GJT	02/04/2010	15.009	mg/l	200.7/6010	0.500
Manganese - ICP	GJT	02/04/2010	0.117	mg/l	200.7/6010	0.005
Mercury	DRM	02/08/2010	ND	mg/l	245.1	0.0002
Nickel - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Potassium - ICP	GJT	02/03/2010	1.331	mg/l	200.7/6010	0.500
Selenium-ICP	GJT	02/04/2010	ND	mg/l	200.7/6010	0.010
Silver-ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Sodium - ICP	GJT	02/04/2010	14.651	mg/l	200.7/6010	0.500

ND=Not Detected

Note: DEP Certification #s 32-00382

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ENVIRONMENTAL
SERVICE LABORATORIES, INC.
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Report of Analysis

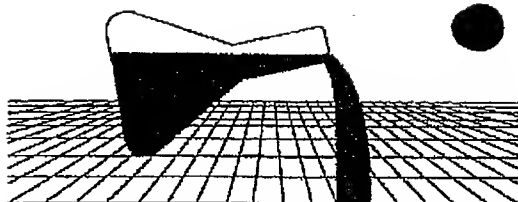
Name:	Range Resource- Appalachia, LLC - Yatesboro PO Box 235	Sample ID#:	10 02807
Sample Start Date:	Yatesboro, PA 16263	Sample Type:	Water
Receipt Date:	1/28/2010 11:45 AM	Sample Source:	Pressure Tank
Report Date:	1/29/2010 10:59 AM	Sampler:	RS (Lab employee)
Sample Site:	2/12/2010	Client Sample ID:	Marjorie Curran Well
	Stewart, Nancy	Well Depth:	25'-30'
		Purveyor:	Marjorie Curran
		Address:	50 Caldwell Rd
		City/State/Zip:	Hickory Pa 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
Thallium - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Vanadium - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Zinc - ICP	GJT	02/03/2010	0.026	mg/l	200.7/6010	0.005
03) Bromochloromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
04) Bromodichloromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
05) Bromoform	RO	02/10/2010	ND	ug/L	624/8260B	1.00
06) Bromomethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
07) n-Butylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
08) sec-Butylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
09) tert-Butylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
1) Benzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
10) Carbon tetrachloride	RO	02/10/2010	ND	ug/L	624/8260B	1.00
100) 4-Chlorotoluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
11) Chlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
12) Chlorodibromomethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
13) Chloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
14) Chloroform	RO	02/10/2010	ND	ug/L	624/8260B	1.00
15) Chloromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
16) 2-Chlorotoluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
18) 1,2-Dibromo-3-chloropropane (DBCP)	RO	02/10/2010	ND	ug/L	624/8260B	1.00

ND=Not Detected

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Report of Analysis

Name: Range Resource- Appalachia, LLC -
 Yatesboro
 PO Box 235
 Sample Start Date: Yatesboro, PA 16263
 Receipt Date: 1/28/2010 11 45 AM
 Report Date: 1/29/2010 10.59 AM
 Sample Site: 2/12/2010
 Stewart, Nancy

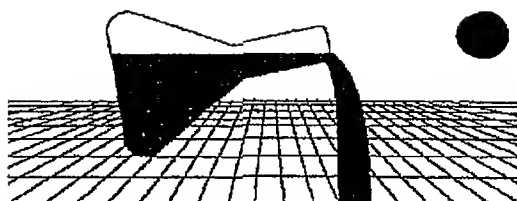
Sample ID#: 10 02807
 Sample Type: Water
 Sample Source: Pressure Tank
 Sampler: RS (Lab employee)
 Client Sample ID: Marjorie Curran Well
 Well Depth: 25'-30'
 Purveyor: Marjorie Curran
 Address: 50 Caldwell Rd
 City/State/Zip: Hickory Pa. 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
2) Bromobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
20) Dibromomethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
21) 1,2-Dichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
22) 1,3-Dichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
23) 1,4-Dichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
24) Dichlorodifluoromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
25) 1,1-Dichloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
26) 1,2-Dichloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
27) 1,1-Dichloroethene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
28) cis-1,2-Dichloroethene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
29) trans-1,2-Dichloroethene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
30) Methylene chloride	RO	02/10/2010	ND	ug/L	624/8260B	1.00
31) 1,2-Dichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
32) 1,3-Dichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
33) 2,2-Dichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
34) 1,1-Dichloropropene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
35) cis 1,3-Dichloropropene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
36) trans 1,3 Dichloropropene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
37) Ethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
38) Hexachlorobutadiene	RO	02/10/2010	ND	ug/L	624/8260B	1.00

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Report of Analysis

Name: Range Resource- Appalachia, LLC -
 Yatesboro
 PO Box 235
Sample Start Date: Yatesboro, PA 16263
Receipt Date: 1/28/2010 11 45 AM
Report Date: 1/29/2010 10:59 AM
Sample Site: 2/12/2010
 Stewart, Nancy

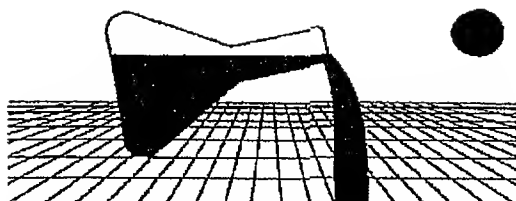
Sample ID#: 10 02807
Sample Type: Water
Sample Source: Pressure Tank
Sampler: RS (Lab employee)
Client Sample ID: Marjorie Curran Well
Well Depth: 25'-30'
Purveyor: Marjorie Curran
Address: 50 Caldwell Rd
City/State/Zip: Hickory Pa 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
39) Isopropylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
40) p-Isopropyltoluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
41) Naphthalene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
42) n-Propylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
43) Styrene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
44) 1,1,1,2-Tetrachloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
45) 1,1,2,2-Tetrachloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
46) Tetrachloroethene (PCE)	RO	02/10/2010	ND	ug/L	624/8260B	1.00
47) Toluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
48) 1,2,3-Trichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
49) 1,2,4-Trichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
50) 1,1,1-Trichloroethane (TCA)	RO	02/10/2010	ND	ug/L	624/8260B	1.00
51) 1,1,2-Trichloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
52) Trichloroethene (TCE)	RO	02/10/2010	ND	ug/L	624/8260B	1.00
53) Trichlorofluoromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
54) 1,2,3-Trichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
55) 1,2,4-Trimethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
56) 1,3,5-Trimethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
57) Vinyl chloride	RO	02/10/2010	ND	ug/L	624/8260B	1.00
58) m+p-Xylene	RO	02/10/2010	ND	ug/L	624/8260B	2.00

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Report of Analysis

Name:	Range Resource- Appalachia, LLC - Yatesboro PO Box 235	Sample ID#:	10 02807
Sample Start Date:	Yatesboro, PA 16263	Sample Type:	Water
Receipt Date:	1/28/2010 11:45 AM	Sample Source:	Pressure Tank
Report Date:	1/29/2010 10 59 AM	Sampler:	RS (Lab employee)
Sample Site:	2/12/2010 Stewart, Nancy	Client Sample ID:	Marjorie Curran Well
		Well Depth:	25'-30'
		Purveyor:	Marjorie Curran
		Address:	50 Caldwell Rd
		City/State/Zip:	Hickory Pa 15340

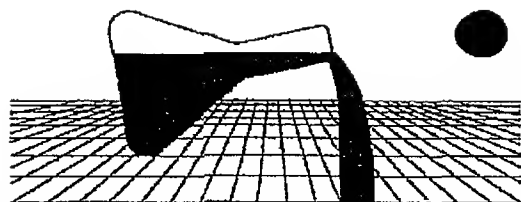
Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
60) o-Xylene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
A05) Methyl tert butyl ether (MTBE)	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A08) Acetone	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A12) Acrylonitrile	RO	02/10/2010	ND	ug/L	624/8260B	5.00
A13) Acrolein	RO	02/10/2010	ND	ug/L	624/8260B	5.00
A18) 2-Butanone (MEK)	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A32) 2-Chloroethyl Vinyl Ether	RO	02/10/2010	ND	ug/L	624/8260B	1.00
A36) 2-Hexanone	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A37) 4-Methyl-2-Pentanone (MIBK)	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A53) 1,2,3-Trimethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00

Comments:

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Report of Analysis

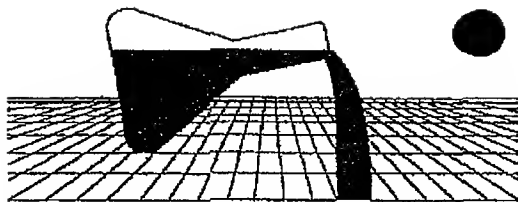
Name:	Range Resource- Appalachia, LLC - Yatesboro PO Box 235	Sample ID#:	10 02808
Sample Start Date:	Yatesboro, PA 16263	Sample Type:	Water
Receipt Date:	1/28/2010 12:00 PM	Sample Source:	Bailed from Spring
Report Date:	1/29/2010 10:59 AM	Sampler:	RS (Lab employee)
Sample Site:	2/12/2010	Client Sample ID:	Marjorie Curran Spring
	Stewart, Nancy	Purveyor	Marjorie Curran
		Address:	50 Caldwell Rd
		City/State/Zip:	Hickory Pa 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
Aluminum - ICP	GJT	02/03/2010	0.023	mg/l	200.7/6010	0.010
Antimony - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Arsenic-ICP	GJT	02/04/2010	ND	mg/l	200.7/6010	0.010
Barium - ICP	GJT	02/03/2010	0.038	mg/l	200.7/6010	0.005
Beryllium - ICP	GJT	02/04/2010	ND	mg/l	200.7/6010	0.005
Cadmium - ICP	GJT	02/04/2010	ND	mg/l	200.7/6010	0.005
Calcium - ICP	GJT	02/03/2010	31.713	mg/l	200.7/6010	0.500
Chromium - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Cobalt - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Copper - ICP	GJT	02/03/2010	0.671	mg/l	200.7/6010	0.005
Iron - ICP	GJT	02/03/2010	0.067	mg/l	200.7/6010	0.010
Lead-ICP	GJT	02/03/2010	0.021	mg/l	200.7/6010	0.005
Magnesium-ICP	GJT	02/04/2010	9.050	mg/l	200.7/6010	0.500
Manganese - ICP	GJT	02/04/2010	ND	mg/l	200.7/6010	0.005
Mercury	DRM	02/08/2010	ND	mg/l	245.1	0.0002
Nickel - ICP	GJT	02/03/2010	0.005	mg/l	200.7/6010	0.005
Potassium - ICP	GJT	02/03/2010	1.663	mg/l	200.7/6010	0.500
Selenium-ICP	GJT	02/04/2010	ND	mg/l	200.7/6010	0.010
Silver-ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Sodium - ICP	GJT	02/04/2010	14.201	mg/l	200.7/6010	0.500
Thallium - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005

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Report of Analysis

Name: Range Resource- Appalachia, LLC -
 Yatesboro
 PO Box 235
 Sample Start Date: Yatesboro, PA 16263
 Receipt Date: 1/28/2010 12:00 PM
 Report Date: 1/29/2010 10:59 AM
 Sample Site: 2/12/2010
 Stewart, Nancy

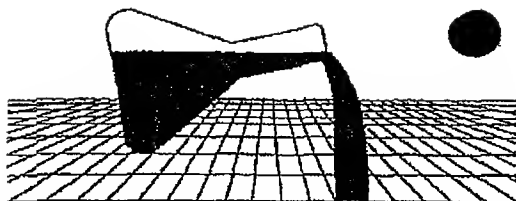
Sample ID#: 10 02808
 Sample Type: Water
 Sample Source: Bailed from Spring
 Sampler: RS (Lab employee)
 Client Sample ID: Marjorie Curran Spring
 Purveyor: Marjorie Curran
 Address: 50 Caldwell Rd
 City/State/Zip: Hickory Pa 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
Vanadium - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Zinc - ICP	GJT	02/03/2010	0.320	mg/l	200.7/6010	0.005
03) Bromochloromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
04) Bromodichloromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
05) Bromoform	RO	02/10/2010	ND	ug/L	624/8260B	1.00
06) Bromomethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
07) n-Butylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
08) sec-Butylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
09) tert-Butylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
1) Benzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
10) Carbon tetrachloride	RO	02/10/2010	ND	ug/L	624/8260B	1.00
100) 4-Chlorotoluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
11) Chlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
12) Chlorodibromomethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
13) Chloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
14) Chloroform	RO	02/10/2010	ND	ug/L	624/8260B	1.00
15) Chloromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
16) 2-Chlorotoluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
18) 1,2-Dibromo-3-chloropropane (DBCP)	RO	02/10/2010	ND	ug/L	624/8260B	1.00
2) Bromobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
20) Dibromomethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00

ND=Not Detected

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 1803 Philadelphia Street, Indiana, PA 15701
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Report of Analysis

Name: Range Resource- Appalachia, LLC -
 Yatesboro
 PO Box 235
Sample Start Date: Yatesboro, PA 16263
Receipt Date: 1/28/2010 12:00 PM
Report Date: 1/29/2010 10:59 AM
Sample Site: 2/12/2010
 Stewart, Nancy

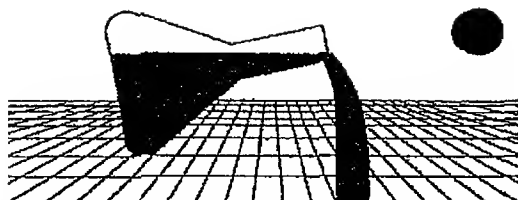
Sample ID#: 10 02808
Sample Type: Water
Sample Source: Bailed from Spring
Sampler: RS (Lab employee)
Client Sample ID: Marjorie Curran Spring
Purveyor: Marjorie Curran
Address: 50 Caldwell Rd
City/State/Zip: Hickory Pa 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
21) 1,2-Dichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
22) 1,3-Dichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
23) 1,4-Dichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
24) Dichlorodifluoromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
25) 1,1-Dichloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
26) 1,2-Dichloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
27) 1,1-Dichloroethene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
28) cis-1,2-Dichloroethene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
29) trans-1,2-Dichloroethene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
30) Methylene chloride	RO	02/10/2010	ND	ug/L	624/8260B	1.00
31) 1,2-Dichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
32) 1,3-Dichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
33) 2,2-Dichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
34) 1,1-Dichloropropene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
35) cis 1,3-Dichloropropene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
36) trans 1,3 Dichloropropene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
37) Ethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
38) Hexachlorobutadiene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
39) Isopropylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
40) p-Isopropyltoluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
41) Naphthalene	RO	02/10/2010	ND	ug/L	624/8260B	1.00

ND=Not Detected

Note: DEP Certification #s 32-00382

Data Qualifiers. D = The reported value is from dilution E = Estimated value S = Surrogate out of control limits
 R = Sample received out of holding time. H = Sample analyzed out of holding time C = Sample received in incorrect container
 B = Analyte was detected in both sample and methods blank X = User defined data qualifier.



ENVIRONMENTAL
SERVICE LABORATORIES, INC.
 1803 Philadelphia Street, Indiana, PA 15701
 (724)-463-TEST FAX (724)-466-4209

Report of Analysis

Name: Range Resource- Appalachia, LLC -
 Yatesboro
 PO Box 235
 Sample Start Date: Yatesboro, PA 16263
 Receipt Date: 1/28/2010 12:00 PM
 Report Date: 1/29/2010 10:59 AM
 Sample Site: 2/12/2010
 Stewart, Nancy

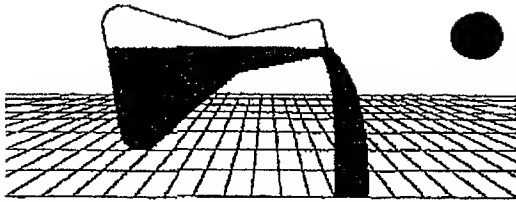
Sample ID#: 10 02808
 Sample Type: Water
 Sample Source: Bailed from Spring
 Sampler: RS (Lab employee)
 Client Sample ID: Marjorie Curran Spring
 Purveyor: Marjorie Curran
 Address: 50 Caldwell Rd.
 City/State/Zip: Hickory Pa 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
42) n-Propylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
43) Styrene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
44) 1,1,1,2-Tetrachloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
45) 1,1,2,2-Tetrachloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
46) Tetrachloroethene (PCB)	RO	02/10/2010	ND	ug/L	624/8260B	1.00
47) Toluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
48) 1,2,3-Trichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
49) 1,2,4-Trichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
50) 1,1,1-Trichloroethane (TCA)	RO	02/10/2010	ND	ug/L	624/8260B	1.00
51) 1,1,2-Trichloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
52) Trichloroethene (TCE)	RO	02/10/2010	ND	ug/L	624/8260B	1.00
53) Trichlorofluoromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
54) 1,2,3-Trichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
55) 1,2,4-Trimethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
56) 1,3,5-Trimethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
57) Vinyl chloride	RO	02/10/2010	ND	ug/L	624/8260B	1.00
58) m+p-Xylene	RO	02/10/2010	ND	ug/L	624/8260B	2.00
60) o-Xylene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
A05) Methyl tert butyl ether (MTBE)	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A08) Acetone	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A12) Acrylonitrile	RO	02/10/2010	ND	ug/L	624/8260B	5.00

ND=Not Detected

Note: DEP Certification #5 32-00382

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Report of Analysis

Name:	Range Resource- Appalachia, LLC - Yatesboro PO Box 235	Sample ID#:	10 02808
Sample Start Date:	Yatesboro, PA 16263	Sample Type:	Water
Receipt Date:	1/28/2010 12:00 PM	Sample Source:	Bailed from Spring
Report Date:	1/29/2010 10:59 AM	Sampler:	RS (Lab employee)
Sample Site:	2/12/2010 Stewart, Nancy	Client Sample ID:	Marjorie Curran Spring
		Purveyor:	Marjorie Curran
		Address:	50 Caldwell Rd
		City/State/Zip:	Hickory Pa 15340

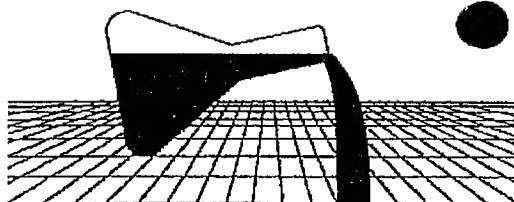
Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
A13) Acrolein	RO	02/10/2010	ND	ug/L	624/8260B	5.00
A18) 2-Butanone (MEK)	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A32) 2-Chloroethyl Vinyl Ether	RO	02/10/2010	ND	ug/L	624/8260B	1.00
A36) 2-Hexanone	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A37) 4-Methyl-2-Pentanone (MIBK)	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A53) 1,2,3-Trimethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00

Comments:

ND=Not Detected

Note: DEP Certification #s 32-00382

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Report of Analysis

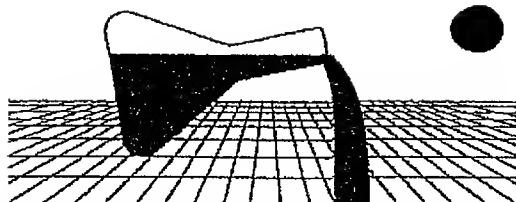
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Sample Start Date:	Yatesboro, PA 16263	Sample Type:	Water
Receipt Date:	1/28/2010 12 30 PM	Sample Source:	Inside Faucet Kitchen
Report Date:	1/29/2010 10 59 AM	Sampler:	RS (Lab employee)
Sample Site:	2/12/2010 Stewart, Nancy	Client Sample ID:	Brian Stewart Well
		Well Depth:	150'
		Purveyor:	Brian Stewart
		Address:	70 Caldwell Rd
		City/State/Zip:	Hickory Pa 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
Aluminum - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.010
Antimony - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Arsenic-ICP	GJT	02/04/2010	ND	mg/l	200.7/6010	0.010
Barium - ICP	GJT	02/03/2010	0.144	mg/l	200.7/6010	0.005
Beryllium - ICP	GJT	02/04/2010	ND	mg/l	200.7/6010	0.005
Cadmium - ICP	GJT	02/04/2010	ND	mg/l	200.7/6010	0.005
Calcium - ICP	GJT	02/03/2010	52.653	mg/l	200.7/6010	0.500
Chromium - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Cobalt - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Copper - ICP	GJT	02/03/2010	0.032	mg/l	200.7/6010	0.005
Iron - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.010
Lead-ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Magnesium-ICP	GJT	02/04/2010	14.674	mg/l	200.7/6010	0.500
Manganese - ICP	GJT	02/04/2010	ND	mg/l	200.7/6010	0.005
Mercury	DRM	02/08/2010	ND	mg/l	245.1	0.0002
Nickel - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Potassium - ICP	GJT	02/03/2010	1.530	mg/l	200.7/6010	0.500
Selenium-ICP	GJT	02/04/2010	ND	mg/l	200.7/6010	0.010
Silver-ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Sodium - ICP	GJT	02/04/2010	19.962	mg/l	200.7/6010	0.500

ND=Not Detected

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Report of Analysis

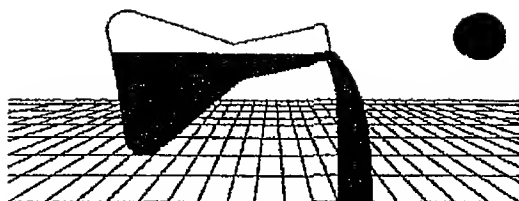
Name:	Range Resource- Appalachia, LLC - Yatesboro PO Box 235	Sample ID#:	10 02809
Sample Start Date:	Yatesboro, PA 16263	Sample Type:	Water
Receipt Date:	1/28/2010 12:30 PM	Sample Source:	Inside Faucet Kitchen
Report Date:	1/29/2010 10:59 AM	Sampler:	RS (Lab employee)
Sample Site:	2/12/2010 Stewart, Nancy	Client Sample ID:	Brian Stewart Well
		Well Depth:	150'
		Purveyor:	Brian Stewart
		Address:	70 Caldwell Rd
		City/State/Zip:	Hickory Pa 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
Thallium - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Vanadium - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Zinc - ICP	GJT	02/03/2010	0.095	mg/l	200.7/6010	0.005
03) Bromochloromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
04) Bromodichloromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
05) Bromoform	RO	02/10/2010	ND	ug/L	624/8260B	1.00
06) Bromomethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
07) n-Butylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
08) sec-Butylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
09) tert-Butylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
1) Benzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
10) Carbon tetrachloride	RO	02/10/2010	ND	ug/L	624/8260B	1.00
100) 4-Chlorotoluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
11) Chlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
12) Chlorodibromomethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
13) Chloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
14) Chloroform	RO	02/10/2010	ND	ug/L	624/8260B	1.00
15) Chloromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
16) 2-Chlorotoluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
18) 1,2 Dibromo-3-chloropropane (DBCP)	RO	02/10/2010	ND	ug/L	624/8260B	1.00

ND=Not Detected

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Report of Analysis

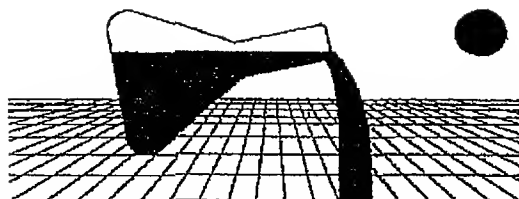
Name:	Range Resource- Appalachia, LLC - Yatesboro PO Box 235	Sample ID#:	10 02809
Sample Start Date:	Yatesboro, PA 16263	Sample Type:	Water
Receipt Date:	1/28/2010 12:30 PM	Sample Source:	Inside Faucet Kitchen
Report Date:	1/29/2010 10 59 AM	Sampler:	RS (Lab employee)
Sample Site:	2/12/2010 Stewart, Nancy	Client Sample ID:	Brian Stewart Well
		Well Depth:	150'
		Purveyor:	Brian Stewart
		Address:	70 Caldwell Rd
		City/State/Zip:	Hickory Pa 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
2) Bromobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
20) Dibromomethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
21) 1,2-Dichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
22) 1,3-Dichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
23) 1,4-Dichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
24) Dichlorodifluoromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
25) 1,1-Dichloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
26) 1,2-Dichloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
27) 1,1-Dichloroethene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
28) cis-1,2-Dichloroethene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
29) trans-1,2-Dichloroethene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
30) Methylene chloride	RO	02/10/2010	ND	ug/L	624/8260B	1.00
31) 1,2-Dichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
32) 1,3-Dichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
33) 2,2-Dichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
34) 1,1-Dichloropropene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
35) cis 1,3-Dichloropropene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
36) trans 1,3 Dichloropropene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
37) Ethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
38) Hexachlorobutadiene	RO	02/10/2010	ND	ug/L	624/8260B	1.00

ND=Not Detected

Note: DEP Certification #s 32-00382

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ENVIRONMENTAL
SERVICE LABORATORIES, INC.
1803 Philadelphia Street, Indiana, PA 15701
(724)-463-TEST FAX (724)-465-4209

Report of Analysis

Name: Range Resource- Appalachia, LLC -
Yatesboro
PO Box 235
Sample Start Date: Yatesboro, PA 16263
Receipt Date: 1/28/2010 12 30 PM
Report Date: 1/29/2010 10 59 AM
Sample Site: 2/12/2010
Stewart, Nancy

Sample ID#: 10 02809
Sample Type: Water
Sample Source: Inside Faucet Kitchen
Sampler: RS (Lab employee)
Client Sample ID: Brian Stewart Well
Well Depth: 150'
Purveyor: Brian Stewart
Address: 70 Caldwell Rd
City/State/Zip: Hickory Pa 15340

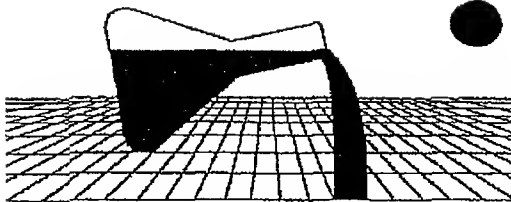
Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
39) Isopropylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
40) p-Isopropyltoluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
41) Naphthalene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
42) n-Propylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
43) Styrene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
44) 1,1,1,2-Tetrachloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
45) 1,1,2,2-Tetrachloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
46) Tetrachloroethene (PCE)	RO	02/10/2010	ND	ug/L	624/8260B	1.00
47) Toluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
48) 1,2,3-Trichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
49) 1,2,4-Trichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
50) 1,1,1-Trichloroethane (TCA)	RO	02/10/2010	ND	ug/L	624/8260B	1.00
51) 1,1,2-Trichloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
52) Trichloroethene (TCE)	RO	02/10/2010	ND	ug/L	624/8260B	1.00
53) Trichlorofluoromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
54) 1,2,3-Trichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
55) 1,2,4-Trimethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
56) 1,3,5-Trimethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
57) Vinyl chloride	RO	02/10/2010	ND	ug/L	624/8260B	1.00
58) m+p-Xylene	RO	02/10/2010	ND	ug/L	624/8260B	2.00

ND=Not Detected

Note: DEP Certification #s 32-00382

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1803 Philadelphia Street, Indiana, PA 15701
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Report of Analysis

Name:	Range Resource- Appalachia, LLC - Yatesboro PO Box 235 Yatesboro, PA 16263	Sample ID#:	10 02809
Sample Start Date:	1/28/2010 12:30 PM	Sample Type:	Water
Receipt Date:	1/29/2010 10 59 AM	Sample Source:	Inside Faucet Kitchen
Report Date:	2/12/2010	Sampler:	RS (Lab employee)
Sample Site:	Stewart, Nancy	Client Sample ID:	Brian Stewart Well
		Well Depth:	150'
		Purveyor:	Brian Stewart
		Address:	70 Caldwell Rd
		City/State/Zip:	Hickory Pa 15340

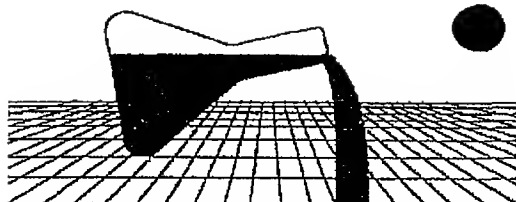
Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
60) o-Xylene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
A05) Methyl tert butyl ether (MTBE)	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A08) Acetone	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A12) Acrylonitrile	RO	02/10/2010	ND	ug/L	624/8260B	5.00
A13) Acrolein	RO	02/10/2010	ND	ug/L	624/8260B	5.00
A18) 2-Butanone (MEK)	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A32) 2-Chloroethyl Vinyl Ether	RO	02/10/2010	ND	ug/L	624/8260B	1.00
A36) 2-Hexanone	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A37) 4-Methyl-2-Pentanone (MIBK)	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A53) 1,2,3-Trimethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00

Comments:

ND=Not Detected

Note: DEP Certification #s 32-00382

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Report of Analysis

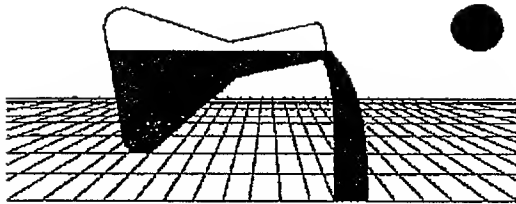
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Sample Start Date:	Yatesboro, PA 16263	Sample Type:	Water
Receipt Date:	1/28/2010 1:30 PM	Sample Source:	Grab
Report Date:	1/29/2010 10:59 AM	Sampler:	RS (Lab employee)
Sample Site:	2/12/2010 Stewart, Nancy	Client Sample ID:	Robert Hinerman Well
		Well Depth:	180'
		Purveyor:	Robert Hinerman
		Address:	170 Avella Rd
		City/State/Zip:	Hickory Pa 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
Aluminum - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.010
Antimony - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Arsenic-ICP	GJT	02/04/2010	ND	mg/l	200.7/6010	0.010
Barium - ICP	GJT	02/03/2010	0.190	mg/l	200.7/6010	0.005
Beryllium - ICP	GJT	02/04/2010	ND	mg/l	200.7/6010	0.005
Cadmium - ICP	GJT	02/04/2010	ND	mg/l	200.7/6010	0.005
Calcium - ICP	GJT	02/03/2010	87.647	mg/l	200.7/6010	0.500
Chromium - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Cobalt - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Copper - ICP	GJT	02/03/2010	0.087	mg/l	200.7/6010	0.005
Iron - ICP	GJT	02/03/2010	0.064	mg/l	200.7/6010	0.010
Lead-ICP	GJT	02/03/2010	0.009	mg/l	200.7/6010	0.005
Magnesium-ICP	GJT	02/04/2010	32.409	mg/l	200.7/6010	0.500
Manganese - ICP	GJT	02/04/2010	0.030	mg/l	200.7/6010	0.005
Mercury	DRM	02/08/2010	ND	mg/l	245.1	0.0002
Nickel - ICP	GJT	02/03/2010	0.005	mg/l	200.7/6010	0.005
Potassium - ICP	GJT	02/03/2010	1.785	mg/l	200.7/6010	0.500
Selenium-ICP	GJT	02/04/2010	ND	mg/l	200.7/6010	0.010
Silver-ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Sodium - ICP	GJT	02/04/2010	19.186	mg/l	200.7/6010	0.500

ND=Not Detected

Note: DEP Certification #s 32-00382

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Report of Analysis

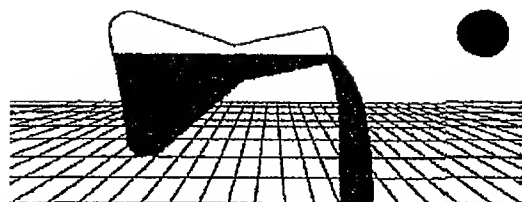
Name:	Range Resource- Appalachia, LLC - Yatesboro PO Box 235	Sample ID#:	10 02810
Sample Start Date:	Yatesboro, PA 16263	Sample Type:	Water
Receipt Date:	1/28/2010 1:30 PM	Sample Source:	Grab
Report Date:	1/29/2010 10:59 AM	Sampler:	RS (Lab employee)
Sample Site:	2/12/2010	Client Sample ID:	Robert Hinerman Well
	Stewart, Nancy	Well Depth:	180'
		Purveyor:	Robert Hinerman
		Address:	170 Avella Rd
		City/State/Zip:	Hickory Pa 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
Thallium - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Vanadium - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Zinc - ICP	GJT	02/03/2010	0.276	mg/l	200.7/6010	0.005
03) Bromochloromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
04) Bromodichloromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
05) Bromoform	RO	02/10/2010	ND	ug/L	624/8260B	1.00
06) Bromomethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
07) n-Butylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
08) sec-Butylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
09) tert-Butylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
1) Benzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
10) Carbon tetrachloride	RO	02/10/2010	ND	ug/L	624/8260B	1.00
100) 4-Chlorotoluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
11) Chlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
12) Chlorodibromomethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
13) Chloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
14) Chloroform	RO	02/10/2010	ND	ug/L	624/8260B	1.00
15) Chloromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
16) 2-Chlorotoluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
18) 1,2 Dibromo-3-chloropropane (DBCP)	RO	02/10/2010	ND	ug/L	624/8260B	1.00

ND=Not Detected

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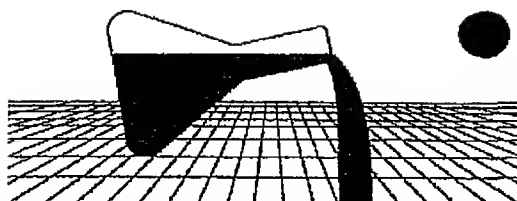
Name:	Range Resource- Appalachia, LLC - Yatesboro PO Box 235	Sample ID#:	10 02810
Sample Start Date:	Yatesboro, PA 16263	Sample Type:	Water
Receipt Date:	1/28/2010 1:30 PM	Sample Source:	Grab
Report Date:	1/29/2010 10:59 AM	Sampler:	RS (Lab employee)
Sample Site:	2/12/2010 Stewart, Nancy	Client Sample ID:	Robert Hinerman Well
		Well Depth:	180'
		Purveyor:	Robert Hinerman
		Address:	170 Avella Rd
		City/State/Zip:	Hickory Pa 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
2) Bromobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
20) Dibromomethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
21) 1,2-Dichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
22) 1,3-Dichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
23) 1,4-Dichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
24) Dichlorodifluoromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
25) 1,1-Dichloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
26) 1,2-Dichloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
27) 1,1-Dichloroethene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
28) cis-1,2-Dichloroethene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
29) trans-1,2-Dichloroethene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
30) Methylene chloride	RO	02/10/2010	ND	ug/L	624/8260B	1.00
31) 1,2-Dichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
32) 1,3-Dichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
33) 2,2-Dichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
34) 1,1-Dichloropropene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
35) cis 1,3-Dichloropropene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
36) trans 1,3 Dichloropropene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
37) Ethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
38) Hexachlorobutadiene	RO	02/10/2010	ND	ug/L	624/8260B	1.00

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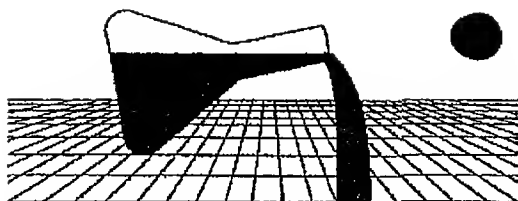
Name:	Range Resource- Appalachia, LLC - Yatesboro PO Box 235	Sample ID#:	10 02810
Sample Start Date:	Yatesboro, PA 16263	Sample Type:	Water
Receipt Date:	1/28/2010 1:30 PM	Sample Source:	Grab
Report Date:	1/29/2010 10:59 AM	Sampler:	RS (Lab employee)
Sample Site:	2/12/2010	Client Sample ID:	Robert Hinerman Well
	Stewart, Nancy	Well Depth:	180'
		Purveyor:	Robert Hinerman
		Address:	170 Avella Rd
		City/State/Zip:	Hickory Pa 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
39) Isopropylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
40) p-Isopropyltoluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
41) Naphthalene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
42) n-Propylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
43) Styrene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
44) 1,1,1,2-Tetrachloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
45) 1,1,2,2-Tetrachloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
46) Tetrachloroethene (PCE)	RO	02/10/2010	ND	ug/L	624/8260B	1.00
47) Toluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
48) 1,2,3-Trichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
49) 1,2,4-Trichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
50) 1,1,1-Trichloroethane (TCA)	RO	02/10/2010	ND	ug/L	624/8260B	1.00
51) 1,1,2-Trichloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
52) Trichloroethene (TCE)	RO	02/10/2010	ND	ug/L	624/8260B	1.00
53) Trichlorofluoromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
54) 1,2,3-Trichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
55) 1,2,4-Trimethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
56) 1,3,5-Trimethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
57) Vinyl chloride	RO	02/10/2010	ND	ug/L	624/8260B	1.00
58) m+p-Xylene	RO	02/10/2010	ND	ug/L	624/8260B	2.00

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Report of Analysis

Name: Range Resource- Appalachia, LLC -
Yatesboro
PO Box 235
Sample Start Date: Yatesboro, PA 16263
Receipt Date: 1/28/2010 1:30 PM
Report Date: 1/29/2010 10:59 AM
Sample Site: 2/12/2010
Stewart, Nancy

Sample ID#: 10 02810
Sample Type: Water
Sample Source: Grab
Sampler: RS (Lab employee)
Client Sample ID: Robert Hinerman Well
Well Depth: 180'
Purveyor: Robert Hinerman
Address: 170 Avella Rd
City/State/Zip: Hickory Pa 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
60) o-Xylene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
A05) Methyl tert butyl ether (MTBE)	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A08) Acetone	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A12) Acrylonitrile	RO	02/10/2010	ND	ug/L	624/8260B	5.00
A13) Acrolein	RO	02/10/2010	ND	ug/L	624/8260B	5.00
A18) 2-Butanone (MEK)	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A32) 2-Chloroethyl Vinyl Ether	RO	02/10/2010	ND	ug/L	624/8260B	1.00
A36) 2-Hexanone	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A37) 4-Methyl-2-Pentanone (MIBK)	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A53) 1,2,3-Trimethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00

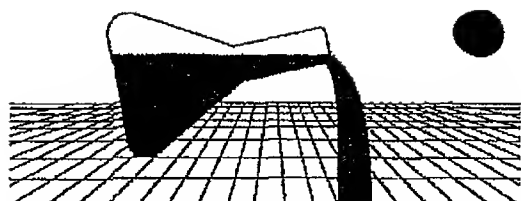
Comments

ND=Not Detected

Note: DEP Certification #s 32-00382

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Report of Analysis

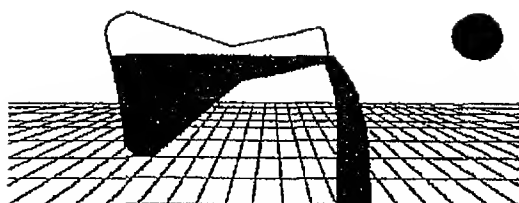
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Sample Start Date:	Yatesboro, PA 16263	Sample Type:	Water
Receipt Date:	1/28/2010 2 15 PM	Sample Source:	Bailed from Spring Cement Trough
Report Date:	1/29/2010 10:59 AM	Sampler:	RS (Lab employee)
Sample Site:	2/12/2010	Client Sample ID	Robert Hinerman Spring
	Stewart, Nancy	Furveyor:	Robert Hinerman
		Address:	170 Avella Rd
		City/State/Zip:	Hickory Pa 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
Aluminum - ICP	GJT	02/03/2010	0.063	mg/l	200.7/6010	0.010
Antimony - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Arsenic-ICP	GJT	02/04/2010	ND	mg/l	200.7/6010	0.010
Barium - ICP	GJT	02/03/2010	0.024	mg/l	200.7/6010	0.005
Beryllium - ICP	GJT	02/04/2010	ND	mg/l	200.7/6010	0.005
Cadmium - ICP	GJT	02/04/2010	ND	mg/l	200.7/6010	0.005
Calcium - ICP	GJT	02/03/2010	35.253	mg/l	200.7/6010	0.500
Chromium - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Cobalt - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Copper - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Iron - ICP	GJT	02/03/2010	0.089	mg/l	200.7/6010	0.010
Lead-ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Magnesium-ICP	GJT	02/04/2010	7.226	mg/l	200.7/6010	0.500
Manganese - ICP	GJT	02/04/2010	ND	mg/l	200.7/6010	0.005
Mercury	DRM	02/08/2010	ND	mg/l	245.1	0.0002
Nickel - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Potassium - ICP	GJT	02/03/2010	0.895	mg/l	200.7/6010	0.500
Selenium-ICP	GJT	02/04/2010	ND	mg/l	200.7/6010	0.010
Silver-ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Sodium - ICP	GJT	02/04/2010	11.643	mg/l	200.7/6010	0.500
Thallium - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005

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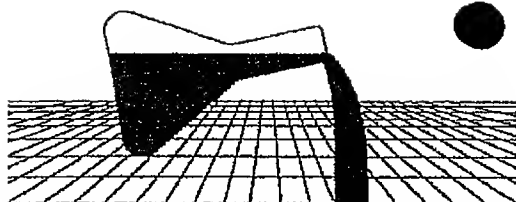
Name:	Range Resource- Appalachia, LLC - Yatesboro PO Box 235	Sample ID#:	10 02811
Sample Start Date:	Yatesboro, PA 16263	Sample Type:	Water
Receipt Date:	1/28/2010 2:15 PM	Sample Source:	Bailed from Spring Cement Trough
Report Date:	1/29/2010 10:59 AM	Sampler:	RS (Lab employee)
Sample Site:	2/12/2010 Stewart, Nancy	Client Sample ID:	Robert Hinerman Spring
		Purveyor:	Robert Hinerman
		Address:	170 Avella Rd
		City/State/Zip:	Hickory Pa 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
Vanadium - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Zinc - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
03) Bromochloromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
04) Bromodichloromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
05) Bromoform	RO	02/10/2010	ND	ug/L	624/8260B	1.00
06) Bromomethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
07) n-Butylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
08) sec-Butylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
09) tert-Butylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
1) Benzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
10) Carbon tetrachloride	RO	02/10/2010	ND	ug/L	624/8260B	1.00
100) 4-Chlorotoluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
11) Chlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
12) Chlorodibromomethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
13) Chloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
14) Chloroform	RO	02/10/2010	ND	ug/L	624/8260B	1.00
15) Chloromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
16) 2-Chlorotoluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
18) 1,2-Dibromo-3-chloropropane (DBCP)	RO	02/10/2010	ND	ug/L	624/8260B	1.00
2) Bromobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
20) Dibromomethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00

ND=Not Detected

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Report of Analysis

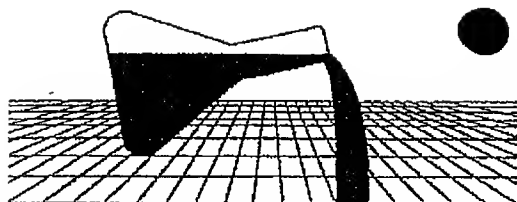
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Sample Start Date:	1/28/2010 2 15 PM	Sample Type:	Water
Receipt Date:	1/29/2010 10:59 AM	Sample Source:	Bailed from Spring Cement Trough
Report Date:	2/12/2010	Sampler:	RS (Lab employee)
Sample Site:	Stewart, Nancy	Client Sample ID:	Robert Hinerman Spring
		Purveyor:	Robert Hinerman
		Address:	170 Avella Rd
		City/State/Zip:	Hickory Pa 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
21) 1,2-Dichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
22) 1,3-Dichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
23) 1,4-Dichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
24) Dichlorodifluoromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
25) 1,1-Dichloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
26) 1,2-Dichloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
27) 1,1-Dichloroethene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
28) cis-1,2-Dichloroethene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
29) trans-1,2-Dichloroethene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
30) Methylene chloride	RO	02/10/2010	ND	ug/L	624/8260B	1.00
31) 1,2-Dichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
32) 1,3-Dichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
33) 2,2-Dichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
34) 1,1-Dichloropropene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
35) cis 1,3-Dichloropropene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
36) trans 1,3 Dichloropropene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
37) Ethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
38) Hexachlorobutadiene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
39) Isopropylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
40) p-Isopropyltoluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
41) Naphthalene	RO	02/10/2010	ND	ug/L	624/8260B	1.00

ND=Not Detected

Note: DEP Certification #s 32-00382

Data Qualifiers: D = The reported value is from dilution. E = Estimated value. S = Surrogate out of control limits.
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Report of Analysis

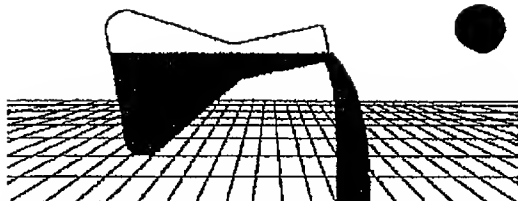
Name:	Range Resource- Appalachia, LLC - Yatesboro PO Box 235	Sample ID#:	10 02811
Sample Start Date:	Yatesboro, PA 16263	Sample Type:	Water
Receipt Date:	1/28/2010 2:15 PM	Sample Source:	Bailed from Spring Cement Trough
Report Date:	1/29/2010 10:59 AM	Sampler:	RS (Lab employee)
Sample Site:	2/12/2010 Stewart, Nancy	Client Sample ID	Robert Hinerman Spring
		Purveyor:	Robert Hinerman
		Address:	170 Avella Rd
		City/State/Zip:	Hickory Pa 15340

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
42) n-Propylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
43) Styrene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
44) 1,1,1,2-Tetrachloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
45) 1,1,2,2-Tetrachloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
46) Tetrachloroethene (PCE)	RO	02/10/2010	ND	ug/L	624/8260B	1.00
47) Toluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
48) 1,2,3-Trichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
49) 1,2,4-Trichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
50) 1,1,1-Trichloroethane (TCA)	RO	02/10/2010	ND	ug/L	624/8260B	1.00
51) 1,1,2-Trichloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
52) Trichloroethene (TCE)	RO	02/10/2010	ND	ug/L	624/8260B	1.00
53) Trichlorofluoromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
54) 1,2,3-Trichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
55) 1,2,4-Trimethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
56) 1,3,5-Trimethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
57) Vinyl chloride	RO	02/10/2010	ND	ug/L	624/8260B	1.00
58) m+p-Xylene	RO	02/10/2010	ND	ug/L	624/8260B	2.00
60) o-Xylene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
A05) Methyl tert butyl ether (MTBE)	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A08) Acetone	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A12) Acrylonitrile	RO	02/10/2010	ND	ug/L	624/8260B	5.00

ND=Not Detected

Note: DEP Certification #s 32-00382

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 B = Analyte was detected in both sample and methods blank, X = User defined data qualifier,



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Name:	Range Resource- Appalachia, LLC - Yatesboro PO Box 235	Sample ID#:	10 02811
Sample Start Date:	Yatesboro, PA 16263	Sample Type:	Water
Receipt Date:	1/28/2010 2:15 PM	Sample Source:	Bailed from Spring Cement Trough
Report Date:	1/29/2010 10:59 AM	Sampler:	RS (Lab employee)
Sample Site:	2/12/2010 Stewart, Nancy	Client Sample ID:	Robert Hinerman Spring
		Purveyor:	Robert Hinerman
		Address:	170 Avella Rd
		City/State/Zip:	Hickory Pa 15340

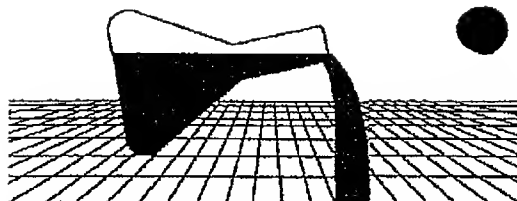
Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
A13) Acrolein	RO	02/10/2010	ND	ug/L	624/8260B	5.00
A18) 2-Butanone (MEK)	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A32) 2-Chloroethyl Vinyl Ether	RO	02/10/2010	ND	ug/L	624/8260B	1.00
A36) 2-Hexanone	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A37) 4-Methyl-2-Pentanone (MIBK)	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A53) 1,2,3-Trimethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00

Comments:

ND=Not Detected

Note: DEP Certification #a 32-06382

Data Qualifiers: D = The reported value is from dilution. E = Estimated value. S = Surrogate out of control limits
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Report of Analysis

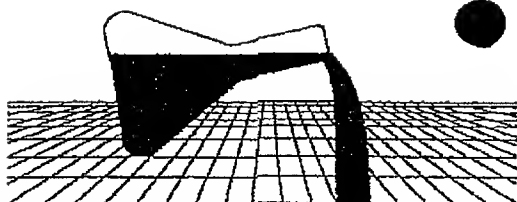
Name: Range Resource- Appalachia, LLC - Sample ID# 10 02830
Yatesboro Sample Type: Water
PO Box 235 Sample Source: Grab
Sample Start Date: Yatesboro, PA 16263 Sampler: RS (Lab employee)
Receipt Date: 1/28/2010 Client Sample ID: Trip Blank
Report Date: 1/29/2010 10 59 AM
Sample Site: 2/12/2010
Stewart, Nancy

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
03) Bromochloromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
04) Bromodichloromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
05) Bromoform	RO	02/10/2010	ND	ug/L	624/8260B	1.00
06) Bromomethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
07) n-Butylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
08) sec-Butylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
09) tert-Butylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
1) Benzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
10) Carbon tetrachloride	RO	02/10/2010	ND	ug/L	624/8260B	1.00
100) 4-Chlorotoluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
11) Chlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
12) Chlorodibromomethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
13) Chloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
14) Chloroform	RO	02/10/2010	ND	ug/L	624/8260B	1.00
15) Chloromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
16) 2- Chlorotoluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
18) 1,2 Dibromo-3-chloropropane (DBCP)	RO	02/10/2010	ND	ug/L	624/8260B	1.00
2) Bromobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
20) Dibromomethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
21) 1,2-Dichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
22) 1,3-Dichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00

ND=Not Detected

Note: DEP Certification #s 32-00382

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Report of Analysis

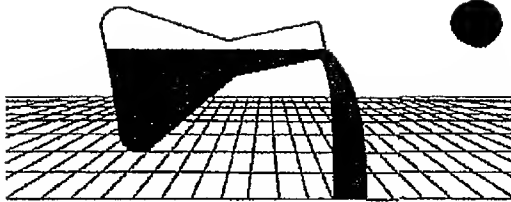
Name: Range Resource- Appalachia, LLC - Sample ID#: 10 02830
Yatesboro Sample Type: Water
PO Box 235 Sample Source: Grab
Sample Start Date: Yatesboro, PA 16263 Sampler: RS (Lab employee)
Receipt Date: 1/28/2010 Client Sample ID: Trip Blank
Report Date: 1/29/2010 10:59 AM
Sample Site: 2/12/2010
Stewart, Nancy

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
23) 1,4-Dichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
24) Dichlorodifluoromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
25) 1,1-Dichloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
26) 1,2-Dichloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
27) 1,1-Dichloroethene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
28) cis-1,2-Dichloroethene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
29) trans-1,2-Dichloroethene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
30) Methylene chloride	RO	02/10/2010	ND	ug/L	624/8260B	1.00
31) 1,2-Dichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
32) 1,3-Dichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
33) 2,2-Dichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
34) 1,1-Dichloropropene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
35) cis 1,3-Dichloropropene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
36) trans 1,3 Dichloropropene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
37) Ethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
38) Hexachlorobutadiene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
39) Isopropylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
40) p-Isopropyltoluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
41) Naphthalene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
42) n-Propylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
43) Styrene	RO	02/10/2010	ND	ug/L	624/8260B	1.00

ND=Not Detected

Note: DEP Certification #s 32-00382

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Report of Analysis

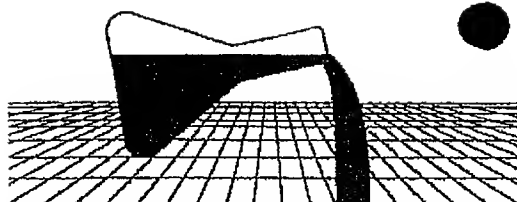
Name:	Range Resource- Appalachia, LLC - Yatesboro PO Box 235	Sample ID#:	10 02830
Sample Start Date:	Yatesboro, PA 16263	Sample Type:	Water
Receipt Date:	1/28/2010	Sample Source:	Grab
Report Date:	1/29/2010 10:59 AM	Sampler:	RS (Lab employee)
Sample Site:	2/12/2010 Stewart, Nancy	Client Sample ID:	Trip Blank

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
44) 1,1,1,2-Tetrachloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
45) 1,1,2,2-Tetrachloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
46) Tetrachloroethene (PCE)	RO	02/10/2010	ND	ug/L	624/8260B	1.00
47) Toluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
48) 1,2,3-Trichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
49) 1,2,4-Trichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
50) 1,1,1-Trichloroethane (TCA)	RO	02/10/2010	ND	ug/L	624/8260B	1.00
51) 1,1,2-Trichloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
52) Trichloroethene (TCE)	RO	02/10/2010	ND	ug/L	624/8260B	1.00
53) Trichlorofluoromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
54) 1,2,3-Trichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
55) 1,2,4-Trimethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
56) 1,3,5-Trimethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
57) Vinyl chloride	RO	02/10/2010	ND	ug/L	624/8260B	1.00
58) m+p-Xylene	RO	02/10/2010	ND	ug/L	624/8260B	2.00
60) o-Xylene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
A05) Methyl tert butyl ether (MTBE)	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A08) Acetone	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A12) Acrylonitrile	RO	02/10/2010	ND	ug/L	624/8260B	5.00
A13) Acrolein	RO	02/10/2010	ND	ug/L	624/8260B	5.00
A18) 2-Butanone (MEK)	RO	02/10/2010	ND	ug/L	624/8260B	2.00

ND=Not Detected

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Report of Analysis

Name: Range Resource- Appalachia, LLC - Sample ID#: 10 02830
Yatesboro Sample Type: Water
PO Box 235 Sample Source: Grab
Sample Start Date: Yatesboro, PA 16263 Sampler: RS (Lab employee)
Receipt Date: 1/28/2010 Client Sample ID: Trip Blank
Report Date: 1/29/2010 10 59 AM
Sample Site: 2/12/2010
Stewart, Nancy

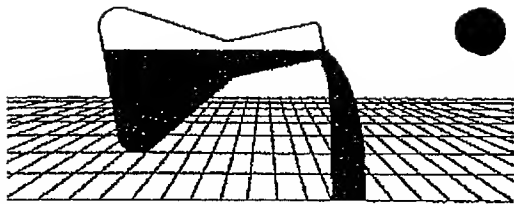
Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
A32) 2-Chloroethyl Vinyl Ether	RO	02/10/2010	ND	ug/L	624/8260B	1.00
A36) 2-Hexanone	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A37) 4-Methyl-2-Pentanone (MIBK)	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A53) 1,2,3-Trimethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00

Comments:

ND=Not Detected

Note: DEP Certification #s 32-00382

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Report of Analysis

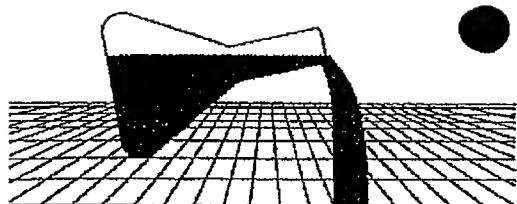
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Sample Start Date:	Yatesboro, PA 16263	Sample Type:	Water
Receipt Date:	1/28/2010 2:45 PM	Sample Source:	Impoundment Pond
Report Date:	1/29/2010 10:59 AM	Sampler:	RS (Lab employee)
Sample Site:	2/12/2010 Stewart, Nancy	Client Sample ID:	Range Stewart #698 Impoundment Pond
		Purveyor:	Range Resources

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
Aluminum - ICP	GJT	02/03/2010	0.023	mg/l	200.7/6010	0.010
Antimony - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Arsenic-ICP	DRM	02/04/2010	ND	mg/l	200.7/6010	0.010
Barium - ICP	GJT	02/03/2010	0.075	mg/l	200.7/6010	0.005
Beryllium - ICP	DRM	02/04/2010	ND	mg/l	200.7/6010	0.005
Cadmium - ICP	DRM	02/04/2010	ND	mg/l	200.7/6010	0.005
Calcium - ICP	GJT	02/03/2010	19.738	mg/l	200.7/6010	0.500
Chromium - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Cobalt - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Copper - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Iron - ICP	GJT	02/03/2010	0.164	mg/l	200.7/6010	0.010
Lead-ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Magnesium-ICP	DRM	02/04/2010	4.949	mg/l	200.7/6010	0.500
Manganese - ICP	DRM	02/04/2010	ND	mg/l	200.7/6010	0.005
Mercury	DRM	02/08/2010	ND	mg/l	245.1	0.0002
Nickel - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Potassium - ICP	GJT	02/03/2010	0.834	mg/l	200.7/6010	0.500
Selenium-ICP	DRM	02/04/2010	ND	mg/l	200.7/6010	0.010
Silver-ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Sodium - ICP	DRM	02/04/2010	12.193	mg/l	200.7/6010	0.500
Thallium - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005

ND=Not Detected

Note: DEP Certification #s 32-00382

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 B = Analyte was detected in both sample and methods blank. X = User defined data qualifier.



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Report of Analysis

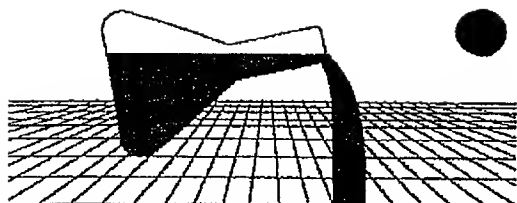
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Sample Start Date:	Yatesboro, PA 16263	Sample Type:	Water
Receipt Date:	1/28/2010 2 45 PM	Sample Source:	Impoundment Pond
Report Date:	1/29/2010 10:59 AM	Sampler:	RS (Lab employee)
Sample Site:	2/12/2010 Stewart, Nancy	Client Sample ID:	Range Stewart #698 Impoundment
		Purveyor:	Pond Range Resources

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
Vanadium - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
Zinc - ICP	GJT	02/03/2010	ND	mg/l	200.7/6010	0.005
03) Bromochloromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
04) Bromodichloromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
05) Bromoform	RO	02/10/2010	ND	ug/L	624/8260B	1.00
06) Bromomethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
07) n-Butylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
08) sec-Butylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
09) tert-Butylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
1) Benzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
10) Carbon tetrachloride	RO	02/10/2010	ND	ug/L	624/8260B	1.00
100) 4-Chlorotoluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
11) Chlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
12) Chlorodibromomethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
13) Chloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
14) Chloroform	RO	02/10/2010	ND	ug/L	624/8260B	1.00
15) Chloromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
16) 2- Chlorotoluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
18) 1,2 Dibromo-3-chloropropane (DBCP)	RO	02/10/2010	ND	ug/L	624/8260B	1.00
2) Bromobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
20) Dibromomethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00

ND=Not Detected

Note: DEP Certification #s 32-00382

Data Qualifiers. D = The reported value is from dilution. E = Estimated value. S = Surrogate out of control limits.
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ENVIRONMENTAL
SERVICE LABORATORIES, INC.
803 Philadelphia Street, Indiana, PA 15701
724-463-TEST FAX (724)-465-4209

Report of Analysis

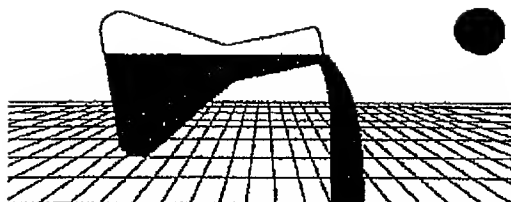
Name:	Range Resource- Appalachia, LLC - Yatesboro PO Box 235	Sample ID#:	10 02812
Sample Start Date:	Yatesboro, PA 16263	Sample Type:	Water
Receipt Date:	1/28/2010 2:45 PM	Sample Source:	Impoundment Pond
Report Date:	1/29/2010 10 59 AM	Sampler:	RS (Lab employee)
Sample Site:	2/12/2010 Stewart, Nancy	Client Sample ID:	Range Stewart #698 Impoundment Pond
		Purveyor:	Range Resources

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
21) 1,2-Dichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
22) 1,3-Dichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
23) 1,4-Dichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
24) Dichlorodifluoromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
25) 1,1-Dichloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
26) 1,2-Dichloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
27) 1,1-Dichloroethene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
28) cis-1,2-Dichloroethene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
29) trans-1,2-Dichloroethene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
30) Methylene chloride	RO	02/10/2010	ND	ug/L	624/8260B	1.00
31) 1,2-Dichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
32) 1,3-Dichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
33) 2,2-Dichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
34) 1,1-Dichloropropene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
35) cis 1,3-Dichloropropene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
36) trans 1,3 Dichloropropene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
37) Ethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
38) Hexachlorobutadiene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
39) Isopropylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
40) p-Isopropyltoluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
41) Naphthalene	RO	02/10/2010	ND	ug/L	624/8260B	1.00

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Report of Analysis

Name: Range Resource- Appalachia, LLC -
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PO Box 235
Sample Start Date: Yatesboro, PA 16263
Receipt Date: 1/28/2010 2:45 PM
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Sample Site: 2/12/2010
Stewart, Nancy

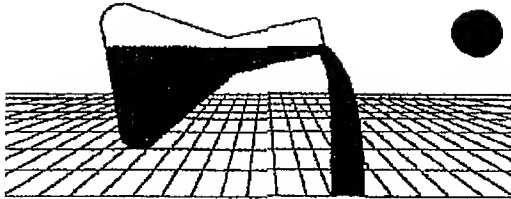
Sample ID#: 10 02812
Sample Type: Water
Sample Source: Impoundment Pond
Sampler: RS (Lab employee)
Client Sample ID: Range Stewart #698 Impoundment
Purveyor: Pond
Range Resources

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
42) n-Propylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
43) Styrene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
44) 1,1,1,2-Tetrachloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
45) 1,1,2,2-Tetrachloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
46) Tetrachloroethene (PCE)	RO	02/10/2010	ND	ug/L	624/8260B	1.00
47) Toluene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
48) 1,2,3-Trichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
49) 1,2,4-Trichlorobenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
50) 1,1,1-Trichloroethane (TCA)	RO	02/10/2010	ND	ug/L	624/8260B	1.00
51) 1,1,2-Trichloroethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
52) Trichloroethene (TCE)	RO	02/10/2010	ND	ug/L	624/8260B	1.00
53) Trichlorofluoromethane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
54) 1,2,3-Trichloropropane	RO	02/10/2010	ND	ug/L	624/8260B	1.00
55) 1,2,4-Trimethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
56) 1,3,5-Trimethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
57) Vinyl chloride	RO	02/10/2010	ND	ug/L	624/8260B	1.00
58) m+p-Xylene	RO	02/10/2010	ND	ug/L	624/8260B	2.00
60) o-Xylene	RO	02/10/2010	ND	ug/L	624/8260B	1.00
A05) Methyl tert butyl ether (MTBE)	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A08) Acetone	RO	02/10/2010	2.43	ug/L	624/8260B	2.00
A12) Acrylonitrile	RO	02/10/2010	ND	ug/L	624/8260B	5.00

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Stewart, Nancy

Sample ID#: 10 02812
Sample Type: Water
Sample Source: Impoundment Pond
Sampler: RS (Lab employee)
Client Sample ID: Range Stewart #698 Impoundment
Purveyor: Pond
Range Resources

Analyte	Analyst	Analysis Date	Sample Result	Units	Method	RPL
A13) Acrolein	RO	02/10/2010	ND	ug/L	624/8260B	5.00
A18) 2-Butanone (MEK)	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A32) 2-Chloroethyl Vinyl Ether	RO	02/10/2010	ND	ug/L	624/8260B	1.00
A36) 2-Hexanone	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A37) 4-Methyl-2-Pentanone (MIBK)	RO	02/10/2010	ND	ug/L	624/8260B	2.00
A53) 1,2,3-Trimethylbenzene	RO	02/10/2010	ND	ug/L	624/8260B	1.00

Comments:

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EXHIBIT C



Pennsylvania Department of Environmental Protection

Oil and Gas Program
400 Waterfront Drive
Pittsburgh, PA 15222-4745
August 12, 2009

CERTIFIED MAIL: 7003 2260 0005 8734 7482

Deanna K. Tanner, Esquire
Villari, Brandes & Kline, P.C.
8 Tower Bridge
161 Washington Street, Suite 400
Conshohocken, PA 19428

Re: Stephanie Hallowich Water Well Contamination

Dear Attorney Tanner:

I am responding to your letter dated August 5, 2009 regarding the water supply of Chris and Stephanie Hallowich, located at 179 Avella Road in Mt Pleasant Township, Washington County. Therein, you allege that Range Resources has contaminated the supply and are requesting that DEP issue an order to the company for the replacement/restoration of the supply. After a review of the information, including primarily water analyses, we cannot affirm your conclusions. I will address the five parameters discussed in the "Residential Groundwater Investigation" prepared by RT Environmental Services, Inc. ("RT") that form the basis of your request: styrene, acrylonitrile, iron, lead, and manganese.

As a bit of background, the Range gas well in question was drilled in July of 2007. The Hallowich water well was installed in October, 2007. In addition, Range constructed a lined, centralized fresh water impoundment near the Hallowich home in the summer of 2007.

A general problem in reaching conclusions about the source of any Hallowich water supply contamination is the lack of a pre-drill analysis of the water source prior to the drilling of the Range gas well. We acknowledge that the water supply was not installed until after the gas well was drilled, but we are unable to document the quality of the aquifer prior to the drilling of the gas well. Moreover, the results taken at a neighboring property (163 Avella Road), which is also close to the gas well, only shows a lead problem; the other four parameters are either non-detect or within drinking water standards. Mrs. Hallowich alleges that the drilling of the gas well polluted the aquifer. As the following will demonstrate, we are lacking any direct evidence to prove this assertion.

Concerning styrene, only one of the two analyses reports this contaminant in the Hallowich supply and thus at an undetermined concentration. RT's own sampling did not

measure any styrene at the reported detection level. How styrene might be related to gas well drilling is not clear. However, the water lines in the Hallowich household, as well as from the water well to the house, are PVC which contains styrene.

The RT report mentions an impact from acrylonitrile. Again, only the "Hunt" sample reports a number, and RT's sampling did not detect this compound. The report identifies acrylonitrile as a possible constituent of the liner and suggests the latter as the cause because there are no other sources in the area. Acrylonitrile is used in the manufacture of plastics, glues, pesticides, ABS pipe (common drain line pipe used in homes, the "A" in ABS stands for acrylonitrile), synthetic rubber, acrylics, carpets, dinnerware, food containers, toys, luggage, automotive parts, appliance, telephones, among others. It can also be washed from the air by rain and then enter the groundwater system. There is a plastic rock which has been placed over the water well and could be leaching contaminants into the ground during rainfall events, which interestingly enough is when Mrs. Hallowich reports that the acrylonitrile values seem to increase based upon on-going sampling that apparently has been occurring. Unfortunately, a sample could not be taken of the pit contents by RT, which could have helped to determine whether or not acrylonitrile might be leaching from the liner. It should also be noted that there is no established drinking water MCL for this compound, either by DEP or EPA.

Iron is discussed as a contaminant. Four iron analyses were performed on the Hallowich supply, two of those taken on the same day. Only one of those, the "Hunt" sample, shows an iron level above the MCL of .3 mg/l. The others, including the DEP and RT samples taken on June 9, 2009 are below the drinking water standard. We do not believe that an iron contamination of the water supply has been established.

The concentration of lead is high in the 6/9/2009 sample taken by RT. However, the 4/1/2009 result in the "Hunt" sample shows compliance with the Pennsylvania MCL. Assuming that there is a lead problem (and I am not sure that assumption has been verified), we are unclear as to the source and how gas well drilling or the impoundment would have caused lead contamination.

The only parameter that consistently seems to be above the MCL is that for manganese. Manganese (and iron) is a common problem in water supplies in southwest Pennsylvania, whether or not any gas/oil well drilling takes place. It can, however, be caused by drilling via the introduction of air into the aquifer – gas well OR water well drilling. Without any pre-drill data, we cannot determine whether the high manganese level is naturally occurring or due to the drilling of the Range gas well or the Hallowich water well itself.

We have learned that Mrs. Hallowich has been collecting and submitting water samples for analysis on a regular basis. This information is not part of the results you attached to your letter and would be helpful to DEP in analyzing this case.

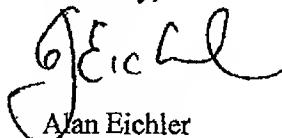
In summary, we question your conclusions about the contamination problems to the Hallowich water supply. The only parameter that is clearly above the MCL is manganese,

and we cannot clearly link it to the drilling of the Range Resources gas well. Therefore, DEP cannot issue a water supply replacement/restoration order to Range Resources

At the end of your letter, you mentioned noise and air pollution problems. Noise is regulated by the local municipality (Mt Pleasant Township) and not by DEP. Concerning air pollution, DEP has already responded to calls and complaints from Mrs. Hallowich about odor problems from Range's operations. To date, we have not been able to document a violation. There is a gas processing plant near the Hallowich home which does have an Air Quality permit and may be the source of odors. However, this facility is operated by a company named Mark West, not Range Resources. If odors persist, DEP's Air Quality Program should be contacted at 412-442-4000.

I hope the foregoing has addressed your concerns. A copy of this letter is being forwarded to the Hallowich's and Range Resources. If you have any additional questions you may contact me by phone at 412-442-4006 or email at aeichler@state.pa.us

Sincerely,



Alan Eichler
Oil & Gas Program Manager

Cc: Case file

Jack Crook
Vince Yantko
Bryon Miller
Scott Sabocheck
Chris & Stephanie Hallowich
Range Resources

21

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
PREMISES LIABILITY ACTION – CIVIL CASE

STEPHANIE HALLOWICH AND CHRIS
HALLOWICH, H/W,

Plaintiffs,

v

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM; MARKWEST ENERGY
PARTNERS, L P.; MARKWEST ENERGY
GROUP, L L C , and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

Docket No 2010-3954

**BRIEF OF DEFENDANT
WILLIAMS GAS/LAUREL
MOUNTAIN MIDSTREAM IN
OPPOSITION TO PLAINTIFFS'
MOTION FOR PRE-COMPLAINT
DISCOVERY**

Filed on behalf of
Williams Gas/Laurel Mountain Midstream

Counsel of Record for this Party

Kathy K. Condo, Esq.
PAID No 34910

Babst, Calland, Clements & Zomnir, P.C
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222
(412) 394-5400

2010 AUG 27 11:19:45

[Handwritten signature]

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
PREMISES LIABILITY ACTION – CIVIL CASE

STEPHANIE HALLOWICH AND CHRIS)
HALLOWICH, H/W,)

Plaintiffs,)

v)

Docket No. 2010-3954

RANGE RESOURCES CORPORATION,)
WILLIAMS GAS/LAUREL MOUNTAIN)
MIDSTREAM, MARKWEST ENERGY)
PARTNERS, L.P ; MARKWEST ENERGY)
GROUP, L L.C., and PENNSYLVANIA)
DEPARTMENT OF ENVIRONMENTAL)
PROTECTION,)

Defendants)

**BRIEF OF DEFENDANT WILLIAMS GAS/LAUREL MOUNTAIN MIDSTREAM IN
OPPOSITION TO PLAINTIFFS' MOTION FOR PRE-COMPLAINT DISCOVERY**

AND NOW, comes Defendant Williams Gas/Laurel Mountain Midstream, by and through its counsel, Kathy K. Condo and Babst, Calland, Clements & Zomnir, P C., and files the following Brief in Opposition to Plaintiffs' Motion for Pre-Complaint Discovery

A. Introduction

On May 27, 2010, Plaintiffs Stephanie and Chris Hallowich filed a Writ of Summons against Range Resources Corporation ("Range"), MarkWest Energy Partners, L P ("MarkWest"), Williams Gas/Laurel Mountain Midstream ("Williams"), and Pennsylvania Department of Environmental Protection ("DEP") They simultaneously filed a Motion to Stay All Rules to File Complaint and to Permit Pre-Complaint Discovery. At an argument on

August 11, 2010, before the Honorable Janet Moschetta Bell, the Court requested briefs from the parties. Williams submits this Brief in response to Plaintiffs' Brief filed on August 20, 2010

Plaintiffs' Motion sets forth in detail in 36 paragraphs the claims they are making against Defendants. Plaintiffs make these claims based on their alleged experiences with noise, traffic, chronic odors, and on well water and stream test results in their possession, which they claim constitute a nuisance and trespass on their property. They specifically iterate dates on which they allege events occurred with respect to certain of the operations for which they bring a claim. They also know the identity of the companies (who are Defendants) with gas operations in the vicinity of their residence. They do not require pre-Complaint discovery to make claims against these companies for conditions about which they claim they are aware. Last, but not least, Plaintiffs acknowledge that they have access to the public records of the DEP through their file reviews. Furthermore, DEP has voluntarily agreed to supplement this information with additional information sought by Plaintiffs. Any information necessary for the drafting of a Complaint is therefore already known to Plaintiffs or readily available and pre-Complaint discovery is inappropriate.

B. Pre-Complaint Discovery Is Not Appropriate Where a Complaint Can Be Filed Without The Aid of the Requested Discovery

It is without issue that pre-Complaint discovery is only appropriate where **necessary** to the filing of a Complaint. Rule 4003.8 of the Pennsylvania Rules of Civil Procedure governs pre-Complaint discovery:

(a) A plaintiff may obtain pre-complaint discovery where the information sought is material and necessary to the filing of the complaint and the discovery will not cause unreasonable annoyance, embarrassment, oppression, burden or expense to any person or party

(b) Upon a motion for protective order or other objection to a plaintiff's pre-complaint discovery, the court may require the plaintiff to

state with particularity how the discovery will materially advance the preparation of the complaint. In deciding the motion or other objection, the court shall weigh the importance of the discovery request against the burdens imposed on any person or party from whom the discovery is sought.

Although Plaintiffs acknowledge this standard, they appear to confuse needing discovery sufficient to prove their claims against Defendants (which is not a basis for pre-Complaint discovery) with needing discovery sufficient to assert their Complaint against Defendants.

By their admissions and allegations, Plaintiffs have demonstrated that they possess sufficient information to file a Complaint. Any further discovery is properly made subsequent to a formal Complaint being filed.

C. Plaintiffs' Requested Discovery is Not Necessary to the Filing a Complaint

Pre-Complaint discovery is appropriate, by Plaintiffs' own admission, when, and only when, a Complaint capable of surviving preliminary objections cannot be filed without aid of the requested discovery. Plaintiffs' Brief at 13. It is therefore restrictively allowed, and any requests must be narrowly drafted.

Plaintiffs attempt to justify their need for pre-Complaint discovery by claiming that they need to know about emissions and equipment malfunctions in order to identify the nuisances to which their property has been subjected, the fallacy of that logic is clear. Plaintiffs have access to their own property for any water or air tests they deem necessary to show any alleged contamination. In fact, according to their Motion, they have had their water tested, and additionally have access to neighbors' stream and water testing. Likewise, knowledge about other Complaints made about the operations at issue is not necessary to draft a Complaint regarding the alleged conditions **on Plaintiffs' property**.

Similarly, the Complaint is not narrowly drafted. Indeed the broad pre-Complaint discovery Plaintiffs seek is no different than the discovery traditionally sought by plaintiffs after a Complaint is filed. Even a cursory review of the documents requested by Plaintiffs as pre-Complaint discovery reveals their broad brush. For instance, as to Williams alone, Plaintiffs seek any and all reports and investigation of gas releases, equipment malfunctions, complaints by neighbors, air and sound testing, computerized system warnings, and zoning and permitting applications. That the Plaintiffs are attempting a pre-Complaint fishing expedition is borne out by their oral argument before the Court during which they argued that they needed dispersion modeling to see how far the alleged contamination had gone, and they needed discovery to "assess liability."

Plaintiffs have in their possession the necessary information concerning any claimed impacts on their property, which allegations serve as the basis for any trespass or nuisance claims they seek to bring.

D. The DEP's Agreement to Provide Documents to Plaintiffs Further Demonstrates the Lack of Necessity for Pre-Complaint Discovery from the Private Defendants

In their Brief, Plaintiffs frequently attempt to justify their need for pre-Complaint discovery by claiming that they need knowledge of reports to DEP and DEP's actions. To the extent that Plaintiffs do not already have such information from their DEP file review, DEP has agreed to provide information to them. Thus, contrary to Plaintiffs' argument that because DEP has not opposed their Motion for Pre-Complaint Discovery, Pre-Complaint discovery should be permitted as to all defendants, the availability of DEP's documents only further confirms that Plaintiffs do not need information from the private defendants in order to draft their Complaint.

E. Plaintiffs' Request for Broad and Unnecessary Pre-Complaint Discovery Would Cause Unreasonable Burden and Prejudice to Defendant

Plaintiffs' broad discovery requests are certainly not the narrow exception to the rule barring pre-Complaint discovery discussed by Judge Wettick in Potts v. Consolidated Rail Corp., 37 Pa D&C 4th 196, 200 (C P Alleg. 1988). No one would mistake Plaintiffs' broad discovery requests for Judge Wettick's examples of exceptions to the rule barring pre-Complaint discovery (a plaintiff's request for his or her written employment agreement with the defendant or a plaintiff's request to a medical provider for his or her medical records) In fact, Plaintiffs' discovery requests are likely overbroad even as traditional post-Complaint discovery Plaintiffs should be required to file their Complaint and then proffer their discovery in the normal course so that the appropriateness of the discovery requests can be measured against Plaintiffs' pleaded claims

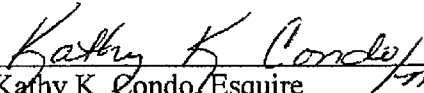
F. Conclusion

In sum, Plaintiffs have the facts and information needed to draft a Complaint They have not met their burden to demonstrate the specific need for the broad pre-Complaint discovery they seek.

WHEREFORE, Defendant Williams Gas/Laurel Mountain Midstream respectfully requests that Plaintiffs' Motion for Stay and Pre-Complaint Discovery be denied

BABST, CALLAND,
CLEMENTS & ZOMNIR, P C.

Date: August 26, 2010


Kathy K. Condo, Esquire

PA I D #34910

Two Gateway Center, 8th Floor

Pittsburgh, PA 15222

(412) 394-5400

*Counsel for Defendant, Williams Gas/
Laurel Mountain Midstream*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Brief of Defendant Williams Gas/Laurel Mountain Midstream in Opposition to Plaintiffs' Motion For Pre-Complaint Discovery** was served on the following individuals via first-class mail this

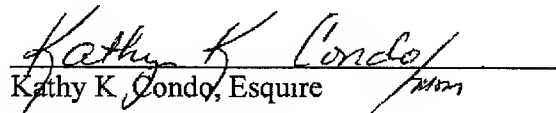
26th day of August, 2010.

Peter M. Villari, Esquire
Villari, Brandes & Kline, P.C
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428

Gail A. Myers, Esquire
DEP-Office of Chief Counsel
400 Waterfront Drive
Pittsburgh, PA 15222-4745

Erin W. McDowell, Esquire
Eckert Seamans Chernin
& Mellott, LLC
U S Steel Tower
600 Grant Street, 44th Floor
Pittsburgh, PA 15219

Richard W. Hosking, Esquire
K&L Gates, LLP
Henry W. Oliver Building
535 Smithfield Street
Pittsburgh, PA 15222-2312


Kathy K. Condo, Esquire

2

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PA

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W

Plaintiffs,

v

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P, MARKWEST
ENERGY GROUP, L.L C, and
PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

Defendants

Docket No 2010-3954

)
)
)
)
) **MarkWest Energy Partners, LP and**
) **MarkWest Energy Group, LLC's**
) **Supplemental Response in Opposition**
) **to Plaintiffs' Motion to Stay All Rules**
) **to File Complaint and For Leave of**
) **Court to Conduct Pre-Complaint**
) **Discovery in the Nature of**
) **Information and Document**
) **Production for the Purpose of**
) **Drafting and Serving a Sufficient**
) **Complaint, and Motion to Stay**
) **Proceeding for a Sufficient Period to**
) **Allow Plaintiff to Conduct Discovery**
)
) *Filed on behalf of Defendant*
) *MarkWest Energy Partners, LP and*
) *MarkWest Energy Group, LLC by*
)
) *Erin Windle McDowell, Esquire*
) *Pa 1 D No 93684*
) *Eckert Seamans Chern & Mellott, LLC*
) *600 Grant Street, 44th Floor*
) *Pittsburgh, PA 15319*
) *(412) 566-6070*
) *(412) 566-6099 facsimile*

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AA

¹ Plaintiffs name as Defendants, MarkWest Energy Partners, LP and MarkWest Energy Group, LLC in the caption of its writ of summons and Motion. However, MarkWest Liberty Midstream and Resources is the entity operating in Washington County, not those listed above.

INTRODUCTION

Plaintiffs, Mr and Mrs Hallowich, filed a writ of summons against Defendant MarkWest, and several other Defendants, on May 27, 2010, along with its Motion. On August 11, 2010, Plaintiffs' counsel presented the Motion to the Court, and at this time MarkWest submitted to the Court its initial response brief ("Initial Response"). At the conclusion of the Motion presentation the Court set forth the following briefing schedule – Plaintiffs, by August 20, 2010, may file a brief in support of Plaintiffs' Motion ("Plaintiffs' Brief"), and Defendants, by August 27, 2010, may file response briefs. At this time, the Court also provided MarkWest the opportunity to supplement its Initial Response. Therefore, MarkWest submits this Supplemental Response, while fully incorporating its Initial Response herein, to Plaintiffs' Brief.

SUPPLEMENTAL ARGUMENT

Like Plaintiffs' Motion, Plaintiffs' Brief in support thereof does not satisfy the requisite legal standard for obtaining pre-complaint discovery. *See Pa. R.C.P. 4003.8*. Plaintiffs' Brief presents a wide-range of allegations relating to Plaintiffs' alleged harm with respect to alleged noise, traffic, water and air contamination that they contend is caused by Defendants. MarkWest disputes the allegations raised therein, however, the allegations set forth in Plaintiffs' Motion and Brief demonstrate that Plaintiffs already have sufficient information to draft and file a complaint. Therefore, the information requested from MarkWest is not necessary, and furthermore is overly broad and unduly burdensome, amounting to nothing more than a fishing expedition. Plaintiffs rely upon five misguided reasons for why the Court should grant their Motion, MarkWest addresses these points in order below.

First, Plaintiffs argue that "Pennsylvania jurisprudence allows for pre-complaint discovery in the preparation of pleadings, especially given Pennsylvania's fact-pleading

requirements” Plaintiffs’ Brief, p 12-14 In support of this argument the Plaintiffs cite various quotes from Pennsylvania court opinions, but curiously, never cite the specific rule applicable to pre-complaint discovery – Rule 4003.8 In fact, Plaintiffs never refer to this rule anywhere in their brief. Plaintiffs instead argue that because Pennsylvania requires fact-pleading that somehow this implies an unrestricted ability for a plaintiff to obtain pre-complaint discovery. This is inaccurate. Indeed, as Rule 4003.8 requires, and as discussed more fully in MarkWest’s Initial Response, Plaintiffs must establish that information sought is “material and necessary to the filing of the complaint”. Pa. R. C. P. 4003.8(a) Plaintiffs have not and cannot meet this burden because, at the very least, they have demonstrated that they have knowledge of sufficient allegations that may be used to draft a complaint. Thus, any further request for pre-complaint discovery is simply not necessary.

Second, Plaintiffs argue that because “Pennsylvania Department of Environmental Protection (“DEP”) does not object to Plaintiffs seeking pre-complaint discovery” (Plaintiffs’ Brief, p. 14-15) that somehow this waives or diminishes MarkWest’s and the other objecting Defendants’ ability to oppose Plaintiffs’ attempt to go on a fishing expedition in its request for pre-complaint discovery – specifically prohibited by Pennsylvania law. *See McNeil v Jordon*, 894 A.2d 1260, 1278 (Pa. 2006); *see also Cooper v Frankford Health Care Sys., Inc.*, 960 A.2d 134, 140 (Pa. Super. Ct. 2008). Plaintiffs cite no support in law for this assertion. Indeed, MarkWest’s right to object to Plaintiffs’ Motion is completely independent from any other parties’ rights to object or not object, including DEP. Furthermore, DEP is obligated to disclose its public records under Pennsylvania’s Right to Know Laws, 65 P.S. §67.101, *et seq.* Such obligation is not imposed on private parties, like MarkWest.

Third, Plaintiffs argue that their requests for pre-complaint discovery are “material and otherwise necessary to file a Complaint”. Plaintiffs’ Brief, p 15-17 In support of this contention. Plaintiffs state

Although maintaining some general and anecdotal knowledge of the specific circumstances involving their claims of water and air contamination and the alleged public nuisance Plaintiffs lack the type of information required to adequately draft a Complaint, including determining, applying and averring specific legal claims, relief, and demands

Plaintiffs’ Brief, p 15

However, this statement is inconsistent with the presentation of specific allegations in Plaintiffs’ Motion and Brief For example, with regard to MarkWest, Plaintiffs contend that on October 20, 2009 MarkWest made “an authorized release of gas” Plaintiffs’ Brief, p 7, 16 Plaintiffs go further in their brief to detail the causes of action that they seek to allege – essentially drafting their complaint in this brief Plaintiffs’ Brief, p. 18-20 While MarkWest does not agree that Plaintiffs have any viable cause of action, Plaintiffs have set forth more than sufficient allegations in this twenty-two page brief alone to draft and file a complaint See Pa R C P 1019 Plaintiffs, therefore, have no good faith basis in which to seek such broad discovery requests from MarkWest See *McNeil and Cooper supra*

Fourth, Plaintiffs argue that “Plaintiffs’ have stated facts supporting a reasonable belief that the evidence sought would support a cognizable cause of action” Plaintiffs’ Brief, p 17-21 Because Plaintiffs cannot demonstrate that the information sought is “material and necessary” to draft a complaint – because Plaintiffs already have sufficient information – it is unnecessary and redundant for Plaintiffs to contend as they do here that the “evidence sought would support a cognizable cause of action ” As stated above, Plaintiffs’ Brief reads essentially like a complaint, and therefore Plaintiffs’ Motion can only be taken to be what it is – a fishing expedition

Fifth, Plaintiffs final argument that “Plaintiffs’ pre-complaint discovery will not cause Defendants unreasonable annoyance, embarrassment, oppression, burden, expenses or prejudice, rather will foster judicial economy and efficiency” – is incorrect. Plaintiffs’ Brief, p. 21-22. Plaintiffs’ Motion must not only fail because the information sought is not “material and necessary” for drafting a complaint, but the information requested therein is overly broad and unduly burdensome. Plaintiffs seek a wide-range of overly broad requests for documents neither material nor necessary for drafting Plaintiffs’ complaint. For example, Plaintiffs seek from MarkWest “any and all reports and investigation of *unusual* gas releases.” Plaintiffs Motion, ¶48; Plaintiffs’ Brief, p. 10 (emphasis supplied). The term “unusual” to describe the types of releases is not only self-serving but conclusory in nature. By way of another example, Plaintiffs seek “all zoning and permitting applications that were filed before the subject facility was built”, *see id.* – such a request exemplifies the broad scope of Plaintiffs’ unnecessary requests. Indeed, Plaintiffs have no good faith basis for which to make such overly broad requests, when it is clear from Plaintiffs’ Brief that they have sufficient allegations to draft and file a complaint.

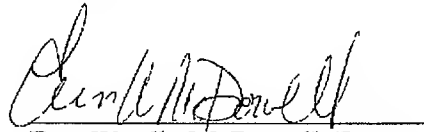
Furthermore and contrary to Plaintiffs’ mischaracterization of Judge Wettick’s opinion in *Potts v Consolidated Rail Corp.*, 37 Pa. D. & C. 4th 196, 199 (1998), Judge Wettick – starting from the premise that pre-complaint discovery should generally be denied – recognized that pre-complaint discovery may be permitted in certain narrow circumstances, and gave two examples of such narrow circumstances, i.e., plaintiffs seeking a copy of plaintiffs’ written or a plaintiff’s request for his or her medical records. *Id.* These examples have no application here, and further shed light on the narrow circumstances in which pre-complaint discovery is permitted in Pennsylvania. Plaintiffs’ overly broad requests for information are the antithesis of what is

contemplated by the Pennsylvania Rules of Civil Procedure and Pennsylvania jurisprudence. *See McNeil, Cooper, Potts*

CONCLUSION

Based on the foregoing, Defendant MarkWest respectfully requests this Court to deny Plaintiffs' Motion

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Erin Windle McDowell", written over a horizontal line.

Erin Windle McDowell, Esquire
Pa. I.D. No. 93684
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15319
(412) 566-6070
(412) 566-6099 *facsimile*

Docket No 2010-3954

ORDER

AND NOW, this _____ day of August, 2010, upon consideration of Defendant MarkWest Energy Partners, LP and MarkWest Energy Group, LLC Initial Response and Supplemental Response in Opposition to Plaintiffs' Motion to Stay All Rules to File Complaint and For Leave of Court to Conduct Pre-Complaint Discovery in the Nature of Information and Document Production for the Purpose of Drafting and Serving a Sufficient Complaint, and Motion to Stay Proceeding for a Sufficient Period to Allow Plaintiff to Conduct Discovery, it is so ORDERED that Plaintiffs' Motion is DENIED.

By the Court,

J

CERTIFICATE OF SERVICE

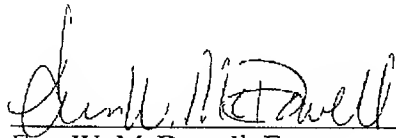
I hereby certify that a true and correct copy of the foregoing Defendant MarkWest Energy Partners, LP and MarkWest Energy Group, LLC Supplemental Response in Opposition to Plaintiffs' Motion to Stay All Rules to File Complaint and For Leave of Court to Conduct Pre-Complaint Discovery in the Nature of Information and Document Production for the Purpose of Drafting and Serving a Sufficient Complaint, and Motion to Stay Proceeding for a Sufficient Period to Allow Plaintiff to Conduct Discovery has been served upon the following counsel of record via first class mail on August 26, 2010

Peter Villari, Esq
Villari, Brandes, & Klme, PC
8 Tower Bridge
161 Washington Street, Suite 400
Conshohocken, PA 19428
Attorneys for Plaintiffs Mr and Mrs Hallowich

Richard Hosking, Esq
K&L Gates
K&L Gates Center
210 Sixth Avenue
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Attorneys for Defendant Range Resources Corporation

Kathy Condo, Esq
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Two Gateway Center, 8th Floor
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Attorneys for Defendant Williams Gas/Laurel Mountain Midstream

Gail Meyers, Esq
DEP Office of Chief Counsel
400 Waterfront Drive
Pittsburgh, PA 15222
Attorney for Defendant Pennsylvania Department of Environmental Protection


Erin W McDowell, Esq
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219

*Attorneys for MarkWest Energy Partners,
LP and MarkWest Energy Group, LLC*

2

Docket No 2010-3954

V

) **MarkWest Energy Partners, LP and**
) **MarkWest Energy Group, LLC's**
) **Supplemental Response in Opposition**
) **to Plaintiffs' Motion to Stay All Rules**
) **to File Complaint and For Leave of**
) **Court to Conduct Pre-Complaint**
) **Discovery in the Nature of**
) **Information and Document**
) **Production for the Purpose of**
) **Drafting and Serving a Sufficient**
) **Complaint, and Motion to Stay**
) **Proceeding for a Sufficient Period to**
) **Allow Plaintiff to Conduct Discovery**

) Filed on behalf on behalf of Defendant
) MarkWest Energy Partners, LP and
) MarkWest Energy Group, LLC by:

) Erin Windle McDowell, Esquire
) Pa 1 D No 93684
) Eckert Seamans Chern & Mellott, LLC
) 600 Grant Street, 44th Floor
) Pittsburgh, PA 15319
) (412) 566-6070
) (412) 566-6099 *facsimile*

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AA

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PA

STEPHANIE HALLOWICH AND)
CHRIS HALLOWICH, H/W)

Docket No 2010-3954

Plaintiffs,)

v)

RANGE RESOURCES CORPORATION,)
WILLIAMS GAS/LAUREL MOUNTAIN)
MIDSTREAM, MARKWEST ENERGY)
PARTNERS, L P , MARKWEST)
ENERGY GROUP, L L C , and)
PENNSYLVANIA DEPARTMENT OF)
ENVIRONMENTAL PROTECTION)

Defendants)

**DEFENDANT MARKWEST ENERGY PARTNERS, LP AND MARKWEST ENERGY
GROUP, LLC'S SUPPLEMENTAL RESPONSE IN OPPOSITION TO PLAINTIFFS'
MOTION TO STAY ALL RULES TO FILE COMPLAINT AND FOR LEAVE OF
COURT TO CONDUCT PRE-COMPLAINT DISCOVERY IN THE NATURE OF
INFORMATION AND DOCUMENT PRODUCTION FOR THE PURPOSE OF
DRAFTING AND SERVING A SUFFICIENT COMPLAINT, AND MOTION TO STAY
PROCEEDINGS FOR A SUFFICIENT PERIOD TO
ALLOW PLAINTIFF TO CONDUCT DISCOVERY**

Defendants, MarkWest Energy Partners, LP and MarkWest Energy Group, LLC
(collectively "MarkWest")¹ by its attorneys Eckert Seamans Chern & Mellott, LLC files this
Supplemental Response in Opposition to Plaintiffs' Motion to Stay All Rules to File Complaint
and for Leave of Court to conduct Pre-Complaint Discovery in the Nature of Information and
Document Production for the Purpose of Drafting and Serving a Sufficient Complaint and
Motion to Stay Proceedings for a Sufficient Period to Allow Plaintiff to Conduct Discovery (i.e.,
Plaintiffs' "Motion") (collectively MarkWest's "Supplemental Response") and state as follows

¹ Plaintiffs name as Defendants, MarkWest Energy Partners, LP and MarkWest Energy Group, LLC in the caption of its writ of summons and Motion. However, MarkWest Liberty Midstream and Resources is the entity operating in Washington County, not those listed above.

INTRODUCTION

Plaintiffs, Mr and Mrs Hallowich, filed a writ of summons against Defendant MarkWest, and several other Defendants, on May 27, 2010, along with its Motion. On August 11, 2010, Plaintiffs' counsel presented the Motion to the Court, and at this time MarkWest submitted to the Court its initial response brief ("Initial Response"). At the conclusion of the Motion presentation the Court set forth the following briefing schedule – Plaintiffs, by August 20, 2010, may file a brief in support of Plaintiffs' Motion ("Plaintiffs' Brief"), and Defendants, by August 27, 2010, may file response briefs. At this time, the Court also provided MarkWest the opportunity to supplement its Initial Response. Therefore, MarkWest submits this Supplemental Response, while fully incorporating its Initial Response herein, to Plaintiffs' Brief.

SUPPLEMENTAL ARGUMENT

Like Plaintiffs' Motion, Plaintiffs' Brief in support thereof does not satisfy the requisite legal standard for obtaining pre-complaint discovery. *See Pa. R.C.P. 4003.8*. Plaintiffs' Brief presents a wide-range of allegations relating to Plaintiffs' alleged harm with respect to alleged noise, traffic, water and air contamination that they contend is caused by Defendants. MarkWest disputes the allegations raised therein, however, the allegations set forth in Plaintiffs' Motion and Brief demonstrate that Plaintiffs already have sufficient information to draft and file a complaint. Therefore, the information requested from MarkWest is not necessary, and furthermore is overly broad and unduly burdensome, amounting to nothing more than a fishing expedition. Plaintiffs rely upon five misguided reasons for why the Court should grant their Motion, MarkWest addresses these points in order below.

First, Plaintiffs argue that "Pennsylvania jurisprudence allows for pre-complaint discovery in the preparation of pleadings, especially given Pennsylvania's fact-pleading

requirements” Plaintiffs’ Brief, p 12-14 In support of this argument the Plaintiffs cite various quotes from Pennsylvania court opinions, but curiously, never cite the specific rule applicable to pre-complaint discovery – Rule 4003.8 In fact, Plaintiffs never refer to this rule anywhere in their brief. Plaintiffs instead argue that because Pennsylvania requires fact-pleading that somehow this implies an unrestricted ability for a plaintiff to obtain pre-complaint discovery. This is inaccurate. Indeed, as Rule 4003.8 requires, and as discussed more fully in MarkWest’s Initial Response, Plaintiffs must establish that information sought is “material and necessary to the filing of the complaint”. Pa. R. C. P. 4003.8(a) Plaintiffs have not and cannot meet this burden because, at the very least, they have demonstrated that they have knowledge of sufficient allegations that may be used to draft a complaint. Thus, any further request for pre-complaint discovery is simply not necessary.

Second, Plaintiffs argue that because “Pennsylvania Department of Environmental Protection (“DEP”) does not object to Plaintiffs seeking pre-complaint discovery” (Plaintiffs’ Brief, p. 14-15) that somehow this waives or diminishes MarkWest’s and the other objecting Defendants’ ability to oppose Plaintiffs’ attempt to go on a fishing expedition in its request for pre-complaint discovery – specifically prohibited by Pennsylvania law. *See McNeil v. Jordon*, 894 A.2d 1260, 1278 (Pa. 2006); *see also Cooper v. Frankford Health Care Sys., Inc.*, 960 A.2d 134, 140 (Pa. Super. Ct. 2008). Plaintiffs cite no support in law for this assertion. Indeed, MarkWest’s right to object to Plaintiffs’ Motion is completely independent from any other parties’ rights to object or not object, including DEP. Furthermore, DEP is obligated to disclose its public records under Pennsylvania’s Right to Know Laws, 65 P.S. §67.101, *et seq.* Such obligation is not imposed on private parties, like MarkWest.

Third, Plaintiffs argue that their requests for pre-complaint discovery are “material and otherwise necessary to file a Complaint”. Plaintiffs’ Brief, p 15-17 In support of this contention, Plaintiffs state

Although maintaining some general and anecdotal knowledge of the specific circumstances involving their claims of water and air contamination and the alleged public nuisance Plaintiffs lack the type of information required to adequately draft a Complaint, including determining, applying and averring specific legal claims, relief, and demands

Plaintiffs’ Brief, p 15

However, this statement is inconsistent with the presentation of specific allegations in Plaintiffs’ Motion and Brief For example, with regard to MarkWest, Plaintiffs contend that on October 20, 2009 MarkWest made “an authorized release of gas” Plaintiffs’ Brief, p 7, 16 Plaintiffs go further in their brief to detail the causes of action that they seek to allege – essentially drafting their complaint in this brief Plaintiffs’ Brief, p. 18-20 While MarkWest does not agree that Plaintiffs have any viable cause of action, Plaintiffs have set forth more than sufficient allegations in this twenty-two page brief alone to draft and file a complaint See Pa R C P 1019 Plaintiffs, therefore, have no good faith basis in which to seek such broad discovery requests from MarkWest See *McNeil and Cooper supra*

Fourth, Plaintiffs argue that “Plaintiffs’ have stated facts supporting a reasonable belief that the evidence sought would support a cognizable cause of action” Plaintiffs’ Brief, p 17-21 Because Plaintiffs cannot demonstrate that the information sought is “material and necessary” to draft a complaint – because Plaintiffs already have sufficient information – it is unnecessary and redundant for Plaintiffs to contend as they do here that the “evidence sought would support a cognizable cause of action ” As stated above, Plaintiffs’ Brief reads essentially like a complaint, and therefore Plaintiffs’ Motion can only be taken to be what it is – a fishing expedition

Fifth, Plaintiffs final argument that “Plaintiffs’ pre-complaint discovery will not cause Defendants unreasonable annoyance, embarrassment, oppression, burden, expenses or prejudice, rather will foster judicial economy and efficiency” – is incorrect. Plaintiffs’ Brief, p. 21-22. Plaintiffs’ Motion must not only fail because the information sought is not “material and necessary” for drafting a complaint, but the information requested therein is overly broad and unduly burdensome. Plaintiffs seek a wide-range of overly broad requests for documents neither material nor necessary for drafting Plaintiffs’ complaint. For example, Plaintiffs seek from MarkWest “any and all reports and investigation of *unusual* gas releases.” Plaintiffs Motion, ¶48; Plaintiffs’ Brief, p. 10 (emphasis supplied). The term “unusual” to describe the types of releases is not only self-serving but conclusory in nature. By way of another example, Plaintiffs seek “all zoning and permitting applications that were filed before the subject facility was built”, *see id.* – such a request exemplifies the broad scope of Plaintiffs’ unnecessary requests. Indeed, Plaintiffs have no good faith basis for which to make such overly broad requests, when it is clear from Plaintiffs’ Brief that they have sufficient allegations to draft and file a complaint.

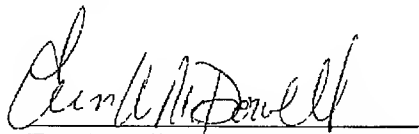
Furthermore and contrary to Plaintiffs’ mischaracterization of Judge Wettick’s opinion in *Potts v Consolidated Rail Corp.*, 37 Pa. D. & C. 4th 196, 199 (1998), Judge Wettick – starting from the premise that pre-complaint discovery should generally be denied – recognized that pre-complaint discovery may be permitted in certain narrow circumstances, and gave two examples of such narrow circumstances, i.e., plaintiffs seeking a copy of plaintiffs’ written or a plaintiff’s request for his or her medical records. *Id.* These examples have no application here, and further shed light on the narrow circumstances in which pre-complaint discovery is permitted in Pennsylvania. Plaintiffs’ overly broad requests for information are the antithesis of what is

contemplated by the Pennsylvania Rules of Civil Procedure and Pennsylvania jurisprudence. *See McNeil, Cooper, Potts*

CONCLUSION

Based on the foregoing, Defendant Mark West respectfully requests this Court to deny Plaintiffs' Motion

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Erin Windle McDowell", written over a horizontal line.

Erin Windle McDowell, Esquire
Pa. I.D. No 93684
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15319
(412) 566-6070
(412) 566-6099 *facsimile*

J

CERTIFICATE OF SERVICE

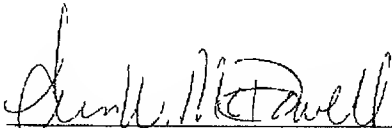
I hereby certify that a true and correct copy of the foregoing Defendant MarkWest Energy Partners, LP and MarkWest Energy Group, LLC Supplemental Response in Opposition to Plaintiffs' Motion to Stay All Rules to File Complaint and For Leave of Court to Conduct Pre-Complaint Discovery in the Nature of Information and Document Production for the Purpose of Drafting and Serving a Sufficient Complaint, and Motion to Stay Proceeding for a Sufficient Period to Allow Plaintiff to Conduct Discovery has been served upon the following counsel of record via first class mail on August 26, 2010

Peter Villari, Esq
Villari, Brandes, & Klme, PC
8 Tower Bridge
161 Washington Street, Suite 400
Conshohocken, PA 19428
Attorneys for Plaintiffs Mr and Mrs Hallowich

Richard Hosking, Esq
K&L Gates
K&L Gates Center
210 Sixth Avenue
Pittsburgh, Pennsylvania 15222
Attorneys for Defendant Range Resources Corporation

Kathy Condo, Esq
Babst, Calland, Clements & Zommar, PC
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Pittsburgh, PA 15222
Attorneys for Defendant Williams Gas/Laurel Mountain Midstream

Gail Meyers, Esq
DEP Office of Chief Counsel
400 Waterfront Drive
Pittsburgh, PA 15222
Attorney for Defendant Pennsylvania Department of Environmental Protection


Erin W McDowell, Esq
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219

*Attorneys for MarkWest Energy Partners,
LP and MarkWest Energy Group, LLC*

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W,

Plaintiffs,

vs

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L L C , AND PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants,

No 2010-3954

2010 NOV 17 PM 3:24
PROT-CIVIL DIVISION
WASHINGTON COUNTY PA

ORDER

AND NOW, to wit, this 17th day of November, 2010, upon consideration of the Plaintiffs' Motion for Leave of Court to Conduct Pre-Complaint Discovery in the Nature of Information and Document Production to Draft and Serve a Sufficient Complaint, and Motion to Stay Proceeding for a Sufficient Period to Allow Plaintiff to Conduct Discovery, it is hereby ORDERED, ADJUDGED, and DECREED that Plaintiffs' motions are DENIED Pursuant to Pennsylvania Rule of Civil Procedure 4003.8, pre-complaint discovery is proper where "the information sought is material and necessary to the filing of the complaint." Plaintiffs have failed to show that the requested discovery is necessary to properly file a complaint. Therefore, pre-complaint discovery is not necessary for Plaintiffs to make proper averments of fact in a civil pleading. Plaintiffs, Stephanie Hallowich and Chris Hallowich, are hereby ORDERED to file their civil complaint pursuant to the Pennsylvania Rules of Civil Procedure

BY THE COURT

Paul Pozonsky, Judge

ENTRY OF OPINION (ORDER, DECREE)
ADJUDICATION OF JUDGMENT FILED 11-17-10
11-18-10

P Villani

G Myers

K Cordo

E McDowell

R Hocking

91

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
PREMISES LIABILITY ACTION – CIVIL CASE

STEPHANIE HALLOWICH AND CHRIS
HALLOWICH, H/W,

Plaintiffs,

v.

RANGE RESOURCES CORPORATION;
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM; MARKWEST ENERGY
PARTNERS, L.P., MARKWEST ENERGY
GROUP, L.L.C., and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

Docket No. 2010-3954

PRAECIPE FOR DISCONTINUANCE

Filed on behalf of Plaintiffs Stephanie
Hallowich and Chris Hallowich, H/W

Counsel of Record for this Party

Peter M. Villari, Esq.
Pa. I D #26875

Villari, Brandes, & Kline, P.C.
8 Tower Bridge
161 Washington Street, Suite 400
Conshohocken, PA 19428
(610) 729-2900 Ph

FILED
11 JUL 11 AM 9:40
NOTARY
WASHINGTON CO. PA.

Peter M. Villari
Attorney for Plaintiffs

VILLARI, BRANDES & KLINE, P.C.

BY: Peter M Villari, Esquire
Attorney I D #26875
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428
(610) 729-2900 Ph.

Attorneys for Plaintiffs

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PA
PREMISES LIABILITY ACTION - CIVIL CASE

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W
179 Avella Road
Hickory, PA 15340

Plaintiffs

DOCKET NO 2010-3954

MAY TERM, 2010

JURY TRIAL DEMANDED

v

RANGE RESOURCES CORPORATION, et al
380 Southpointe Boulevard
Canonsburg, PA 15317

CERTIFICATE OF SERVICE

Peter M Villari, Esquire, hereby certifies that a copy of the Praecipe for
Discontinuance, was served upon the following this 8th day of July 2011, via first class
mail:

Gail A Myers, Esquire
Office of Chief Counsel
400 Waterfront Drive
Pittsburgh, PA 15222-4745

Kathy K Condo, Esquire
Babst, Calland, Clements & Zomnir, P C
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222


Erin Windle McDowell, Esquire
Eckert SeamansCherin & Mellott LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219

Richard Hosking, Esquire
James C Swetz, Esquire
K&L Gates
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222-2613

Respectfully submitted,

Date 7/8/11

By

A handwritten signature in black ink, appearing to read 'P. Villari', written over a horizontal line.

Peter M Villari, Esquire
Attorney for Plaintiffs

7✓

VILLARI, BRANDES & KLINE, P.C.

By Peter M. Villari, Esquire
Attorney I.D. Nos 26875
8 Tower Bridge, Suite 400
161 Washington Street
Conshohocken, PA 19428
610-729-2900

Attorneys for Plaintiffs

**IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY,
PENNSYLVANIA
PREMISES LIABILITY ACTION – CIVIL CASE**

STEPHANIE HALLOWICH AND CHRIS)
HALLOWICH, H/W,)

Plaintiffs,)

v.)

RANGE RESOURCES CORPORATION,)
WILLIAMS GAS/LAUREL MOUNTAIN)
MIDSTREAM; MARKWEST ENERGY)
PARTNERS, L P , MARKWEST)
ENERGY GROUP, L L.C ; and)
PENNSYLVANIA DEPARTMENT OF)
ENVIRONMENTAL PROTECTION,)

Defendants)

CIVIL ACTION

Docket No 2010-3954

ORDER

AND NOW, this _____ day of _____, 2011, upon consideration of *Plaintiffs' Petition for Approval of Settlement of Minors' Actions pursuant to Pa R C P 2039 and Local Rule 2039 1*, the Court having reviewed the Petition, supporting documents and any response thereto, and for good cause having been shown, it is hereby ORDERED and DECREED that the Petition is granted The global settlement in the amount of

\$750,000 00 in the amount of \$750,000 00 is approved. The allocation and distribution of settlement proceeds shall be as follows:

- | | | |
|-----|--|---------------|
| (a) | To: Villari, Brandes & Kline, P C
Reimbursement for Costs | \$ 5179 63 |
| (b) | To Villari, Brandes & Kline, P C.
Counsel Fee | \$ 150,000 00 |
| (c) | To Stephanie and Chris Hallowich | \$ 594,820.37 |

BY THE COURT

J

VILLARI, BRANDES & KLINE, P.C.

By Peter M. Villari, Esquire
Attorney I D. Nos : 26875
8 Tower Bridge, Suite 400
161 Washington Street
Conshohocken, PA 19428
610-729-2900

Attorneys for Plaintiffs

**IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY,
PENNSYLVANIA
PREMISES LIABILITY ACTION – CIVIL CASE**

STEPHANIE HALLOWICH AND CHRIS)
HALLOWICH, H/W,)

Plaintiffs,)

v.)

RANGE RESOURCES CORPORATION,)
WILLIAMS GAS/LAUREL MOUNTAIN)
MIDSTREAM; MARKWEST ENERGY)
PARTNERS, L P , MARKWEST)
ENERGY GROUP, L.L C., and)
PENNSYLVANIA DEPARTMENT OF)
ENVIRONMENTAL PROTECTION,)

Defendants)

CIVIL ACTION

Docket No 2010-3954

FILED UNDER SEAL

FILED
11 JUL 28 AM 10:13
WASHINGTON CO. PA.

**PLAINTIFFS' PETITION FOR APPROVAL OF SETTLEMENT OF
MINORS' ACTIONS PURSUANT TO PA.R.C.P. 2039 AND
LOCAL RULE 2039.1**

Plaintiffs, Stephanie and Chris Hallowich, and their minor children ("Plaintiffs") by and through their undersigned attorneys, Villari, Brandes & Kline, P C , file this Petition for Approval of Settlement of Minors' Actions pursuant to Pa R.C P 2039 and Local Rule 2039.1. In support thereof, Plaintiffs assert as follows:

1. Plaintiffs, Stephanie Hallowich and Christopher Hallowich, along with their minor

children, were and are citizens and residents of the Commonwealth of Pennsylvania, residing at 179 Avella Road, Hickory, Mt Pleasant Township, PA 15340

2. The Defendants in this lawsuit are

- a Range Resources-Appalachia, LLC ("Range Resources");
- b Williams Field Services Company, L.L.C ("Williams"),
- c Laurel Mountain Midstream, L.L.C ("LMM"),
- d MarkWest Energy Partners, L.P., and MarkWest Energy Group, L.L.C ("MarkWest"), and
- e the Pennsylvania Department of Environmental Protection (DEP)

3. On May 27, 2010, the Plaintiffs, Stephanie and Chris Hallowich, filed a Praecipe to Issue Writ of Summons in the Court of Common Pleas of Washington County, Pennsylvania captioned "Stephanie Hallowich and Chris Hallowich, H/W v Range Resources Corporation, Williams Gas/Laurel Mountain Mid-Stream, MarkWest Energy Partners, L.P., MarkWest Energy Group, L.L.C., and Pennsylvania Department of Environmental Protection", Docket No 2010-3954, through the filing of a Praecipe to Issue Writ of Summons

4. Plaintiffs subsequently drafted, but did not file, a Complaint that added as named Plaintiffs their minor children, Nathan and Alyson, and included claims on behalf of the minor children. This Complaint was forwarded to Defendants on March 10, 2011, and is attached herein as Exhibit "A"

5. On June 24, 2011, all the parties, except the DEP, entered into the Settlement Agreement and Release ("Agreement") to resolve the above-captioned matter attached herein as Exhibit "B" (To be filed under Seal)

6. Such Agreement references, incorporates, includes, and releases the aforesaid Defendants from the claims of Plaintiffs' minor children and also references and incorporates

the aforesaid Complaint.

7. Pursuant to PA R.C.P. 2039 (a) ("no action to which a minor is a party shall be compromised, settled, or discontinued except after approval by the court pursuant to a petition . . .) Washington County Local Rule 2039.1 requires Court approval of any settlements of claims involving minors. Accordingly Plaintiffs file this Petition and request the Court's approval of the settlement and permanent release of Plaintiffs' minor children's claims.

8 Plaintiffs and Defendants have settled this matter for a gross amount of \$ 750,000.00.

9. Counsel has incurred expenses to date (totaling \$ 5179 63) for which reimbursement is sought

10. With respect to the settlement proceeds, counsel requests a fee of twenty percent (20%) of the net recovery after deduction of costs. Accordingly, counsel requests a fee in the amount of \$ 150,000.00

11 Plaintiff minors' alleged claims involve nuisance and personal injury. There is presently no medical evidence that support that these claims are related to any exposure to the activities of Defendants as set forth in Plaintiffs' Complaint. See Plaintiffs' Attached Affidavit attached herein as Exhibit "C"

12 Additionally, the parties, as set forth in Paragraph 4 of the Agreement, have established an arbitration process to assess and adjudicate any possible future claims of personal injury of the Plaintiffs and Plaintiffs' minors, including medical examinations of the minors related thereto. In that regard, any possible claims for personal injuries to the minor Plaintiffs related to Defendants' alleged activities will be resolved in arbitration pursuant to the Agreement.

13. The net settlement after the deduction of costs and fees is \$ 594,820.37, which Plaintiffs

have elected to apportion as follows

- a. For the claims of Stephanie and Chris Hallowich \$ 544,820 37
- b. For the claims of Nathan Joseph Hallowich, a minor: \$ 10,000 00
- c. For the claims of Alyson Elizabeth Hallowich, a minor \$ 10,000.00

14. Stephanie and Chris Hallowich will hold the minor's distribution in a special trust and/or annuity account

15. It is Plaintiffs' counsel opinion that based upon the facts and circumstances of the case, that the proposed settlement is reasonable and fair

16. The parties pursuant to pursuant to Local Rule 2039.1, hereby petition this Court for approval of this settlement involving Plaintiff minors.

17. Additionally, the parties request this Court mark the docket, including this Petition as Sealed

Respectfully submitted,

VILLARI, BRANDES & KLINE, P.C.

BY 

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Attorney I.D. # 26875, 59769
161 Washington Street,
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Conshohocken, PA 19428
Tele 610-729-2900
Attys for Plaintiffs

July 26, 2011

EXHIBIT

A

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

STEPHANIE HALLOWICH AND
CHRISTOPHER HALLOWICH, H/W,
AND THEIR MINOR CHILDREN, BY AND
THROUGH THEIR PARENTS AND NATURAL
GUARDIANS

179 Avella Road
Hickory, PA 15340

Plaintiffs

v

RANGE RESOURCES CORPORATION
380 Southpointe Boulevard, Suite 300
Canonsburg, PA 15317

-and-

WILLIAMS GAS AND LAUREL MOUNTAIN
MIDSTREAM

1550 Coraopolis Heights Road, 2nd Floor
Moon Township, PA 15108

-and-

MARKWEST ENERGY PARTNERS, L P
100 Plaza Drive, Suite 102
P O Box 279
Atlasburg, PA 15004

- and-

MARKWEST ENERGY GROUP, L L C
100 Plaza Drive, Suite 102
P O Box 279
Atlasburg, PA 15004

-and-

PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

400 Waterfront Drive
Pittsburgh, PA 15222-4745

-and-

MT PLEASANT TOWNSHIP,
31 McCarrell Road, Hickory, PA 15340

-and-

MT PLEASANT TOWNSHIP BOARD OF
SUPERVISORS,

31 McCarrell Road, Hickory, PA 15340

-and-

MT PLEASANT TOWNSHIP PLANNING
COMMISSION,

CIVIL ACTION NO.

JURY TRIAL DEMANDED

31 McCarrell Road, Hickory, PA 15340
-and-
MT PLEASANT TOWNSHIP ZONING
HEARING BOARD,
31 McCarrell Road, Hickory, PA 15340

COMPLAINT

Plaintiffs, Stephanie and Chris Hallowich, and their minor children, by and through their undersigned attorneys, Villari, Brandes & Kline, P C , herem assert upon information and belief the following

SUMMARY OF CLAIMS

1 Plaintiffs Stephanie and Chris Hallowich, and their minor children ("Plaintiffs"), bring this action against Defendants Range Resources Corporation, Williams Gas and Laurel Mountain Midstream, MarkWest Energy Partners, L P , MarkWest Energy Group L L C , the Pennsylvania Department of Environmental Protection ("DEP"), Mt Pleasant Township, Mt Pleasant Township Board of Supervisors, Mt Pleasant Township Planning Commission, and Mt Pleasant Township Zoning Hearing Board for statutory violations and claims pursuant to, among other things, the Clean Air Act ("CAA"), 42 U S C §§7401-7671q et seq , Pennsylvania's Air Pollution Control Act ("APCA"), 35 P S §§ 4000 1-4015 et seq, Pennsylvania's Hazardous Sites Cleanup Act ("HSCA"), 35 P S §§ 6020.101-6020 1305 et seq, Pennsylvania's Clean Streams Law ("CLA"), 25 Pa Code 78 60, Pennsylvania's Storm Water Management Act, 32 P S §§ 680 1-680 17 et seq , 42 U S C S § 1983, and common law claims for trespass, private nuisance, negligence, battery, and ultra-hazardous activities

PARTIES

2 At all times relevant herem, Plaintiffs, Stephanie Hallowich and Christopher Hallowich, along with their minor children, were and are citizens and residents of the Commonwealth of

Pennsylvania, residing at 179 Avella Road, Hickory, Mt Pleasant Township, PA 15340

3 Defendant, Range Resources Corporation ("Range"), upon information and belief, is a Texas Corporation, registered to do business in Pennsylvania, with an office located at 380 Southpointe Boulevard, Suite 300, Canonsburg, PA 15317 At all times relevant to this action, Defendant Range Resources Corporation, owned, operated, designed, installed, and were responsible for maintaining and/or were responsible for inspecting Plants, natural gas wells, impoundments, and other facilities, located at or in proximity to Plaintiffs' property

4 Defendants, Williams Gas and Laurel Mountain Midstream ("William Gas and Laurel Mountain"), upon information and belief, is a Pennsylvania Corporation, registered to do business in the Commonwealth of Pennsylvania, with an office located at 1550 Coraopolis Heights Road, 2nd Floor, Moon Township, PA 15108 At all times relevant to this action, Defendant William Gas and Laurel Mountain Midstream, owned, operated, were responsible for maintaining and/or were responsible for inspecting Plants, natural gas wells, impoundments, and other facilities, located at or in proximity to Plaintiffs' property

5 Defendants, MarkWest Energy Partners, L P and MarkWest Energy Group L L C ("MarkWest"), upon information and belief, are Pennsylvania Corporations, registered to do business in the Commonwealth of Pennsylvania, with offices located at 100 Plaza Drive, Suite 102, P O Box 279, Atlasburg, PA 15004 At all times relevant to this action, Defendant MarkWest, owned, operated, designed, installed, and were responsible for maintaining and/or were responsible for inspecting Plants, natural gas wells, impoundments, and other facilities, located at or in proximity to Plaintiffs' property

6 Defendant, Pennsylvania Department of Environmental Protection ("DEP"), is a government agency of the Commonwealth of Pennsylvania, with its principal offices located at 400 Waterfront Drive, Pittsburgh, PA 15222-4745 At all times relevant to this action,

Defendant DEP had and continues to have regulatory oversight concerning the safety, compliance and permitting of Defendants' Plants, natural gas wells, impoundments, and other facilities located at or in proximity to Plaintiffs' property and has had and continues to have a duty to Plaintiffs and others similarly situated to enforce the environmental laws of Pennsylvania and of the United States, and to timely protect Pennsylvania's environment, natural resources and the health, safety and property of its citizens relative thereto

7 Defendants, Mt Pleasant Township, Mt Pleasant Township Board of Supervisors, Mt Pleasant Township Planning Commission and Mt Pleasant Township Zoning Hearing Board (collectively "Mount Pleasant"), are local government agencies, with offices located at 31 McCarrell Road, Hickory, PA 15340 At all times relevant to this action, Defendant Mount Pleasant had and continues to have regulatory oversight concerning the zoning, safety, compliance, and permitting of Defendants' Plants, natural gas wells, impoundments, and other facilities, located at or in proximity to Plaintiffs' property and has had and continues to have a duty to Plaintiffs and others similarly situated to enforce the environmental laws of Pennsylvania, and the United States, and to timely protect the Township's environment, natural resources and the health and property of its citizens relative thereto

8 Defendants, Range Resources Corporation, Williams Gas and Laurel Mountain Midstream, MarkWest Energy Partners, L P, MarkWest Energy Group L L C, the Pennsylvania Department of Environmental Protection ("DEP"), Mt Pleasant Township, Mt Pleasant Township Board of Supervisors, Mt Pleasant Township Planning Commission, and Mt Pleasant Township Zoning Hearing Board are hereinafter sometimes referred to collectively as the ("Defendants")

JURISDICTION AND VENUE

9 This Honorable Court has jurisdiction over the subject matter of this action pursuant to

the Clean Air Act ("CAA"), 42 U S C §§7401-7671q et seq, 42 U S C S § 1983, and pursuant to 28 U S C. §§ 1331, 1345, and 1355 The Court also has pendant jurisdiction of any claims under state law

10 Venue is proper in the Western District of Pennsylvania, pursuant to the Clean Air Act ("CAA"), Sections 113(b), 42 U S C § 7413(b), and 28 U S C §§ 1391(b), (c), and 1395(a), because Defendants Range, Williams Gas and Laurel Mountain Midstream, and MarkWest, are located in this District and have their principal places of business in this District, the violations have occurred and are occurring in this District, and the plant at issue is located in this District

GENERAL FACTUAL ALLEGATIONS

11 The matter herein involves complex legal issues relating to environmental contamination and adverse health exposures attributable to the natural gas drilling and processing activities of Defendants Range, William Gas and Laurel Mountain and MarkWest at or around Plaintiffs' home and property, located at 179 Avella Road, Hickory, PA 15340

12 At or around June 28, 2005, Plaintiffs entered into a sales agreement for the purchase of property to build a home for themselves and their young children Plaintiffs commenced construction of their new home on or around November 1, 2006, and moved into their new home by November 2, 2007

13 Unknown to the Plaintiffs, the prior owner of their property, Nancy Stewart ("Stewart"), leased and/or sold to the Defendants the property adjacent to Plaintiffs' property for the purpose of drilling natural gas wells and extracting natural gas by way of a process called hydraulic fracturing and/or fracking, which is a drilling process by which chemical fluids are injected underground for the purpose of breaking-up Marcellus shale so as to release and harvest the natural gas trapped therein

14 Also unknown to Plaintiffs at the aforesaid time, a lease to the mineral rights directly under Plaintiffs' property had also been executed by and between Stewart and Defendants

15 By May 24, 2007, Plaintiffs' home was built with the walls completely framed

16 Plaintiffs eventually installed a water well, their only source of water, in October of 2007

17 In July of 2007, without any notification to Plaintiffs, Defendant Range commenced the drilling and installation of a natural gas well ("Stewart Well # 8"), and began hydraulic fracking activities

18 Such gas drilling and processing activities with respect to Stewart Well # 8 occurred less than 1000 feet (approximately 947 feet) from Plaintiffs' property and water well cap, despite regulations requiring that any gas well heads be at least 1000 feet from any water well caps and/or provide notice thereof to affected property owners, including any and all pre-drill water testing

19 Additional drilling, processing, and/or fracking activities also occurred without any notice to Plaintiffs from May to August of 2007 including, but not limited, to the construction of Stewart Well # 1, Stewart Well # 4, and Stewart Well # 6, all of which are in close proximity to and/or surrounding Plaintiffs' property

20 In 2008, Defendant Range built the Stewart Compressor station less than 580 yards from Plaintiffs' home in order to further facilitate the processing and transporting of the natural gas it extracted from the aforesaid wells to market. Such facility is now owned, operated, and maintained by Defendant MarkWest

21 Additionally, in 2008 Defendants Williams Gas and Laurel Mountain Midstream built a gas conditioning facility, the Laurel Mountain Midstream Dew Point Control Facility, approximately 340 yards from Plaintiffs' home in order to further facilitate the processing

and transporting of the said natural gas to market

22 In essence, over the course of a few years, Plaintiffs' once quiet, serene, safe, and pristine dream home and property became entrapped in the center of an extensive, unsafe, annoying, unpleasant, obnoxious and nuisance generating, drilling, processing and natural gas storage industrial site

23 Although Defendants' work is in an area zoned agricultural, Defendants installed and built an industrial facility and conducted natural gas drilling and processing activities on said land without properly securing needed permits and/or variances

24 Defendant, Mt Pleasant Township, despite the relevant and applicable zoning laws, ordinances, regulations, and guidelines, allowed Defendants to install, build and operate the aforesaid natural gas drilling and processing facilities on the involved land without properly securing needed permits and/or variances, and without taking any reasonable steps to investigate, control, regulate and/or stop these activities of Defendants

25 In fact, Plaintiffs aver that relevant Township zoning laws with respect to Defendants were not properly followed, defended, upheld and/or enforced by Defendant Mt Pleasant, including but not limited to holding proper zoning hearings, providing residents proper notices of such hearings, implementing, defending, upholding and enforcing proper permitting regulations, statutes, and ordinances with respect to Defendants natural gas and drilling activities, and enforcing its own ordinances, specifically Ordinance No 118 requiring that a natural gas drilling facility and/or its operations shall "comply with applicable permits and requirements of the Pennsylvania Department of Environmental Protection, the U S Environmental Protection Agency, and other governmental authority having jurisdiction over its operations, and with all federal, state and local laws, ordinances and regulations promulgated to protect the environment or otherwise relating to environmental matters "

26 Additionally, Defendants Range, William Gas and Laurel Mountain, and MarkWest, failed to submit appropriate zoning hearing applications or to seek proper zoning permits and/or zoning variances in the construction, maintenance, installation, and operation of their aforesaid respective wells, plants and facilities

27 Plaintiffs believe, and therefore aver with respect to Defendants Range, William Gas and Laurel Mountain and MarkWest that relevant and applicable zoning procedures, hearings, codes, and regulations were not properly adhered to and/or followed, whereby Defendants were able, without limitation, to improperly commence, complete and continue their said natural gas operations in the aforesaid area, all to Plaintiffs great detriment, damage, injury and loss

28 Since Defendants' gas drilling, processing, fracking and transporting activities have commenced, the area at or in close proximity to Plaintiffs' property has been the subject of chronic, ongoing, unsafe, annoying, unpleasant, obnoxious and unceasing environmental pollution and contamination (water, soil, and air), with attendant exposure related concerns, all of which caused and continue to cause numerous public and private nuisances and many adverse health risks

29 For instance, on July 30, 2007, shortly after Defendants' commencement of gas drilling and processing activities related to Stewart Well # 8, Plaintiffs' immediate neighboring landowner, the Brickmeyers, filed a Complaint with the Pennsylvania Department of Environmental Protection ("DEP") alleging certain environmental contamination and health risk exposures to their water supply as a result of the natural gas drilling activities of Defendants in the area and the possible leakage of certain toxins and natural gas from the casing from Stewart Well # 8

30 As a result, the Brickmeyers were eventually removed from their home by Defendants

and relocated for a period of time, including being given an alternative water source and filtering equipment by Defendant Range

31 Additionally, Defendant Range made similar accommodations to other neighboring land owners due to concerns pertaining to environmental pollution and contamination and the adverse health risks associated with the aforesaid drilling activities, but similar accommodations have not been made with respect to Plaintiffs

32 On May 5, 2009, Plaintiffs filed a Complaint with the DEP regarding odors, smells and other noxious and unsafe fumes and emissions coming from Defendants' aforesaid plants and facilities At the same time, Plaintiffs also filed a Complaint with the DEP concerning the potential contamination of their drinking water from Defendants' activities.

33 On June 28, 2009, Plaintiffs filed a Complaint with the DEP regarding Stewart Well # 1 spraying an unknown and unsafe noxious liquid in the air, which liquid caused headaches and other health concerns to Plaintiffs and their minor children, as a result of which Plaintiffs and their children were forced to vacate their home

34 In June of 2009, Plaintiffs tested their well water, the results of which confirmed the presence of various volatile organic compounds (VOCs) including, but not limited to, acrylonitrile and styrene In fact, water samples taken at Plaintiffs' property showed the presence of acrylonitrile measured at approximately 1.46 UG/L, significantly above regulatory limits

35 According to the U.S. Center for Disease Control (CDC), Acrylonitrile is a colorless liquid man-made chemical with a sharp, onion or garlic-like odor and is used to make other chemicals such as plastics, synthetic rubber and acrylic fibers

36 With respect to Defendants' aforesaid gas drilling and processing activities, acrylonitrile is commonly used as part of the liner for the water impoundment and is also utilized as a

chemical to reduce friction related to the involved gas drilling and processing activities. The CDC also reports that "breathing high concentrations of acrylonitrile will cause nose and throat irritation, tightness in the chest, difficulty breathing, nausea, dizziness, weakness, headache, impaired judgment, and convulsions." Additionally, the CDC references that the "Department of Health and Human Services (DHHS) has determined that acrylonitrile may reasonably be anticipated to cause cancer in people."

37 Additionally, as a result of the aforesaid water pollution and contamination, Plaintiffs have incurred and continue to incur, significant costs and expenses in obtaining alternative potable water for cooking, drinking and bathing.

38 Additional water testing of neighboring wells and an adjacent stream have also produced results establishing the presence of acrylonitrile and other VOCs above regulatory limits.

39 Upon information and belief, Plaintiffs' air, ground and water have been subjected to past, ongoing and continued contamination and pollution caused by one or all of Defendants' aforesaid gas drilling and processing operations. The dispersion and distribution pathways of such pollution and contamination, all VOCs and hazardous chemicals that may be involved, the individual activities of each Defendant with regard thereto, and/or the specific health risks of such VOCs and hazardous chemicals and the pollution and contamination they cause are presently partially unclear to Plaintiffs due to the denial of their Motion for Pre-Complaint discovery regarding same by this Court and will require reasonable discovery to be definitely established.

40 To date, the DEP has taken no effective regulatory action against any of the Defendants for their aforesaid water contamination, pollution and/or toxic discharges, whether in the form of permitting, consent decrees, violations, fines or other regulatory action, nor has the

DEP indicated what or when it intends to do regarding same, instead choosing to disregard and ignore its aforesaid duty to Plaintiffs in such situations as here exist and thereby condone other Defendants' said activities

41 Drip gas is a natural gas condensate, a naturally occurring form of gasoline found near many oil and natural gas wells, found in natural gas pipelines, and/or is a byproduct of natural gas extraction

42 On or about June 28, 2009, a valve operated by Defendant Range at Stewart Well #1 malfunctioned, spraying "drip gas" into the air, as a result of which Plaintiffs and their children suffered from nausea, difficulty breathing, severe headaches, throat irritation, chest discomfort and other health issues, all of which forced them to physically leave their home

43 Defendant Range has been the source and cause of numerous other similar adverse and harmful releases. Such releases are and were not permissible, nor were they reported to the DEP, and Plaintiffs remain uncertain as to what, if any, action by the DEP was taken. These releases by Defendant Range were the result of equipment malfunctions and/or the careless and negligent operation of their aforesaid facilities

44 Additionally, similar noxious gases, odors and harmful hazardous and/or toxic substances have been emitted from and/or otherwise released from Defendant Laurel Mountain's Dew Point Control Facility, as a result of its drilling and processing operations and/or as a result of related equipment malfunctions and/or the careless and neglect operation of their aforesaid facility

45 For example, on April 16, 2010, Defendants Williams Gas and/or Laurel Mountain caused an unauthorized release of natural gas or other hazardous and/or toxic substances into the air. Such releases caused Plaintiffs and their children to suffer from various adverse health issues including, but not limited to, respiratory problems, burning eyes, throat

irritation and severe headaches and, again, forced them to physically leave their home

46 Defendants, Williams Gas and/or Laurel Mountain, as with the other natural gas Defendants herein, continue to be the source and cause of numerous other adverse and harmful toxic and/or hazardous substance releases. Such releases were and continue to be impermissible, may not have been reported to the DEP by said Defendants, and Plaintiffs are unaware what, if any, action was taken by the DEP with regard thereto because to date they have been wrongfully denied such information.

47 Plaintiffs aver that the aforesaid noxious gases and odors, harmful, hazardous, and/or toxic substances and said nuisances have been caused by and/or emitted and released from Defendant MarkWest's and other Defendants' facilities as a result of the aforesaid natural gas drilling and processing operations due to equipment malfunction, their negligent and careless conduct, and/or other causes directly under said Defendants' control.

48 For instance, on October 20, 2009, there was an unauthorized release of natural gas or other toxic and/or hazardous substances from Defendant MarkWest's facility. Such release caused Plaintiffs and their children to suffer from various adverse health issues including, but not limited to, respiratory problems, burning eyes, throat irritation and severe headaches, thereby again forcing them to physically leave their home. At that time, Plaintiffs filed a Complaint with the DEP regarding said incident but, to Plaintiffs' knowledge, the DEP chose to do nothing regarding same.

49 The aforesaid natural gas compressors and facilities of Defendants MarkWest, Range, Williams Gas and Laurel Mountain have been the source and cause of numerous other adverse and harmful releases of hazardous and/or toxic substances, all of which were impermissible, unplanned, a result of equipment malfunction, neglect and/or careless conduct, or other causes directly under the control of said Defendants, some if not all of

which were not reported to the DEP

50 For example, at or around December 9, 2009, Plaintiffs filed a Complaint with the DEP involving a fire at Defendant MarkWest's compressor station. To Plaintiffs' knowledge, nothing was done by the DEP, nor did the DEP previously know of this incident.

51 Plaintiffs and their children also suffer from chronic, ongoing and unceasing public and private nuisance resulting from Defendants' aforesaid actions, in the form of noise, traffic, dust, released or emitted unsafe harmful liquids, unsafe storage compounds or facilities, noxious and unpleasant odors and/or various other safety and health risks, all of which adversely affect the value of their house and property, their quality of life, their safety, their health, and the health and safety of their pets.

52 Additionally, Plaintiffs have filed numerous Complaints with the Township involving nuisance related noise including, but not limited to January 15-17, 2010, January 27, 2010, March 8, 2010, March 10, 2010, March 20, 2010, March 22-23, 2010, April 2, 2010, July 9, 2010, August 18, 2010, and October 28-29, 2010. Nothing has been done to abate same to Plaintiffs' knowledge despite Defendant, Mt. Pleasant's, duty and responsibility to do so.

53 Although Plaintiffs have and continue to attempt to sell their home, Plaintiffs have experienced immense difficulty and hardship in doing so to date, having been advised by real estate professionals that their property is virtually "unsellable." Plaintiffs have and continue to suffer a substantial diminution in their property's value as a result of Defendants' aforesaid actions, omissions, negligence, carelessness, and/or nuisances including, but not limited to, the aforesaid environmental and health harms and risks and failure to perform their legal duties and obligations to the public and Plaintiffs as set forth herein.

54. Indeed, Plaintiffs are routinely exposed to deafening noise at all times during the day and night, which noise interferes with their sleep, constant traffic, unrelenting dust from the

traffic, inadequate protective fencing or barriers around dangerous natural gas facility impoundments, as well as the aforesaid hazardous, unsafe, and nuisance generating activities of Defendants previously set forth herein, all of which adversely affects their health, safety, enjoyment of their home and lives

55 Plaintiffs aver that the source and cause of such public and private nuisances is the joint and several conduct of Defendants. In fact, Plaintiffs have filed nuisance related Complaints with the Township concerning these activities including, but not limited to June 16, 2010, June 24, 2010, June 25, 2010, June 26, 2010, July 6, 2010, and July 9, 2010. To Plaintiffs' knowledge, nothing has been done regarding same despite Defendant, Mt. Pleasant's, duty and responsibility to do so.

56 On April 16, 2010, Plaintiffs filed a Complaint with the National Response Center ("NRC"), DEP, and Township involving an approximately seventy-five (75) minute unplanned and unauthorized release of harmful and toxic chemicals by Defendants Williams Gas and/or Laurel Mountain Midstream. At no time prior thereto were Plaintiffs provided notice or warning of said release. To Plaintiffs' knowledge nothing was done by the DEP, NRC, or the Township, regarding the same despite Defendant, their duty and responsibility to do so.

57 Plaintiffs have filed further Complaints with the NRC and DEP as a result of unauthorized releases of harmful and toxic substances by Defendants on May 28, 2010, June 8, 2010, and June 19, 2010, all of which caused Plaintiffs and their children to suffer burning eyes, throats, and other health issues, and forced Plaintiffs and their minor children to evacuate their home. To Plaintiffs' knowledge, nothing was done by the DEP or the Township, regarding the same despite their duty and responsibility to do so.

58 Plaintiffs and their children have continued to experience ongoing similar harms,

adverse health effects and health risks as a result of the aforesaid releases and have filed additional Complaints regarding same with the NRC and DEP on September 7, 2010, September 23, 2010, October 14, 2010, October 20, 2010, November 11, 2010, December 28, 2010, and January 7, 2011. During such releases, Plaintiffs suffered from bloody noses, headaches, nausea, and were forced to evacuate their home. To Plaintiffs' knowledge nothing was done by the DEP or the Township regarding same despite their duty and responsibility to do so.

59 Despite active and continuing reasonable efforts by Plaintiffs to have Defendants, Range, MarkWest, and Williams Gas and Laurel Mountain cease and desist from their aforesaid unsafe, hazardous, and nuisance activities, Defendants continue to subject Plaintiffs and/or allow them to be subject to said activities and the adverse and harmful living and health conditions resulting therefrom.

60 Additionally, despite Plaintiffs' reasonable and continuing efforts to request the DEP to protect and enforce their rights as citizens and homeowners as it is required to do under pertinent laws, the DEP as of this date has not reasonably acted to regulate Defendants, Range, MarkWest and Williams Gas and Laurel Mountain's aforesaid actions or omissions and/or unlawful conduct relating to the environment.

61 Additionally, despite Plaintiffs' reasonable and continuing efforts to request the DEP to protect and enforce their rights as citizens and homeowners as it is required to do under pertinent laws, the DEP as of this date has not reasonably acted to regulate Defendants, Mt Pleasant Township, Mt Pleasant Township Board of Supervisors, Mt Pleasant Township Planning Commission and Mt Pleasant Township Zoning Hearing Board's aforesaid actions or omissions and/or unlawful conduct relating to the environment.

62 Plaintiffs have and continue to be subjected to said Defendants' aforementioned careless

actions and/or omissions, nuisances, their chronic, ongoing, unceasing, releases of toxic and hazardous discharges, their release and discharge of noxious gases, spraying "drip gas" and/or other potentially harmful hazardous and dangerous fumes and discharges, and/or failure to control or regulate same, all from Defendants, Range, MarkWest and Williams Gas and Laurel Mountain's aforesaid natural gas drilling, processing, and storage operations.

63 Indeed, on March 2, 2011, an explosion occurred at a compression station owned by Defendant MarkWest causing further nuisance, stress, and potential harm to Plaintiffs and others living in the area

CLAIMS FOR RELIEF

PLAINTIFFS V. DEFENDANTS RANGE, WILLIAM GAS AND/OR LAUREL MOUNTAIN, MARKWEST COUNT I – STATUTORY CLAIMS

64 Paragraphs 1 through 63 above, are incorporated herein by reference, as if fully set forth

65 The Clean Air Act ("CAA"), 42 U S C §§7401-7671q et seq, is designed to protect and enhance the quality of the nation's air, so as to promote the public health and welfare of the citizens See 42 U S C § 7401(b)(1)

66 Additionally, the Commonwealth of Pennsylvania has implemented other environmental regulations, statutes, and laws regarding the emission of hazardous materials, particulates, and substances into the air, water and environment See Pennsylvania's Air Pollution Control Act ("APCA"), 35 P S §§ 4000 1-4015 et seq, Pennsylvania Clean Streams Law, 25 Pa Code § 78 60, and Pennsylvania's Storm Water Management Act, 32 P S §§ 680 1-680 17 et seq

67 Defendants, as corporate entities and as relevant "persons" within the meaning of the CAA, Section 302(e), 42 U S C § 7602(e), had and have a legal duty, obligation, and were

and are required to comply with relevant federal and state regulations concerning emissions, particulates, and releases from their aforesaid respective Plants and operations, including relevant permitting, modification, equipment maintenance, assessment, testing, health analysis, and other ambient and clean air related requirements and regulations

68 Defendants violated applicable and relevant federal and state environmental regulatory standards by a) releasing hazardous, noxious, harmful and dangerous chemicals and substances into the air, water, and soil, b) failing to advise or provide public notice and/or warning to the public regarding same, c) failing to advise, warn, and/or provide notice to the DEP or other government regulatory authorities concerning such releases, d) failing to undergo the necessary federal and state mandated assessments, testing, and determinations in connection with such releases, e) failing to implement, install, utilize, and otherwise employ the federal and state mandated pollution controls, f) failing to operate their plants and facilities in compliance with federal and state emission limitations, g) failing to secure proper permits and/or to properly comply with any permits issued, h) continuing to operate without meeting additional federal and state regulatory standards and requirements, as required by the Clean Air Act ("CAA"), 42 U S C §§7401-7671q, et seq, and other federal and state regulations, including Pennsylvania's Air Pollution Control Act ("APCA"), 35 P S §§ 4000 1-4015 et seq, Pennsylvania Clean Streams Law, 25 Pa Code § 78 60, and Pennsylvania's Storm Water Management Act, 32 P S §§ 680 1-680 17 et seq

69 Defendants' conduct and environmental violations subjects them to an Order to pay for related response costs, past and future, and for the other relief requested by Plaintiffs herein

PLAINTIFFS V. DEP
COUNT II. – STATUTORY CLAIMS

70 Paragraphs 1 through 69 above, are incorporated herein by reference, as if fully set forth

71 The Clean Air Act (“CAA”), 42 U S C §§7401-7671q et seq, is designed to protect and enhance the quality of the nation’s air, so as to promote the public health and welfare of the citizens See 42 U S C § 7401(b)(1)

72 Additionally, the Commonwealth of Pennsylvania has implemented other environmental regulations, statutes, and laws, regarding the emission of hazardous materials, particulates, and substances, into the air, water and environment See Pennsylvania’s Air Pollution Control Act (“APCA”), 35 P S §§ 4000 1-4015 et seq, Pennsylvania Clean Streams Law (“CLS”), 25 Pa Code § 78 60, and Pennsylvania’s Storm Water Management Act (“SWMA”), 32 P S §§ 680 1-680 17 et seq

73 Defendant DEP is the entity charged with the duty to act on complaints under the CAA, APCA, the CLS, and the SWMA

74 Specifically, Defendant DEP had and has a legal duty and obligation, and was and is required, to insure that the other Defendants herein complied with relevant federal and state regulations concerning emissions, particulates, and releases from their aforesaid respective Plants and operations, including relevant permitting, modification, equipment maintenance, assessment, testing, health analysis, and other ambient and clean air related requirements and regulations

75 Instead of carrying out its legal duties, the DEP allowed Defendants to violate applicable and relevant federal and state environmental regulatory standards by a) releasing hazardous, noxious, harmful, and dangerous chemicals and substances into the air, water, and

soil, b) failing to advise or provide public notice and/or warning to the public regarding same, c) failing to advise, warn, and/or provide notice to the DEP or other government regulatory authorities concerning such releases, d) failing to require and/or undergo the necessary federal and state mandated assessments, testing, and determinations in connection with such releases, e) failing to require the implementation of, or itself to implement, install, utilize, and otherwise employ the federal and state mandated pollution controls, f) failing to require the securement of proper permits and/or the proper compliance with any permits issued including, but not limited to land use and/or zoning permits, g) allowing Defendants, Range, MarkWest and Williams Gas and Laurel Mountain to operate without meeting additional federal and state regulatory standards, requirements, as required by the Clean Air Act ("CAA"), 42 U S C §§7401-7671q, et seq, and other federal and state regulations, including Pennsylvania's Air Pollution Control Act ("APCA"), 35 P S §§ 4000 1-4015 et seq, Pennsylvania Clean Streams Law, 25 Pa Code § 78 60, and Pennsylvania's Storm Water Management Act, 32 P S §§ 680 1-680 17 et seq

76 Defendant's conduct and environmental violations subjects it to an Order to pay for related response costs, past and future, and for the other relief requested by Plaintiffs herein

PLAINTIFFS V. DEFENDANT MT. PLEASANT
COUNT III. – STATUTORY CLAIMS

77 Paragraphs 1 through 76 above, are incorporated herein by reference, as if fully set forth

78 The Clean Air Act ("CAA"), 42 U S C §§7401-7671q et seq, is designed to protect and enhance the quality of the nation's air, so as to promote the public health and welfare of the citizens See 42 U S C § 7401(b)(1)

79 Additionally, the Commonwealth of Pennsylvania has implemented other

environmental regulations, statutes, and laws, regarding the emission of hazardous materials, particulates, and substances, into the air See Pennsylvania's Air Pollution Control Act ("APCA"), 35 P S §§ 4000 1-4015 et seq, Pennsylvania Clean Streams Law ("CLS"), 25 Pa Code § 78 60, and Pennsylvania's Storm Water Management Act ("SWMA"), 32 P S §§ 680 1-680 17 et seq

80 Defendant Mt Pleasant is the entity or entities(s) charged with the duty to act on complaints under the CAA, APCA, the CLS, and the SWMA

81 Specifically, Defendant Mt Pleasant had and has a legal duty and obligation, and was and is required, to insure that the other Defendants herein complied and continue to comply with relevant federal and state regulations concerning emissions, particulates, and releases from their aforesaid respective Plants and operations, including relevant permitting, modification, equipment maintenance, assessment, testing, health analysis, and other ambient and clean air related requirements and regulations

82 Instead of carrying out its legal duties, Defendant Mt Pleasant allowed Defendants to violate applicable and relevant federal and state environmental regulatory standards by a) releasing hazardous, noxious, harmful, and dangerous chemicals and substances into the air, water, and soil, b) failing to advise or provide public notice and/or warning to the public regarding same, c) failing to advise, warn, and/or provide notice to the DEP or other government regulatory authorities concerning such releases, d) failing to require and/or undergo the necessary federal and state mandated assessments, testing, and determinations in connection with such releases, e) failing to require the implementation of, or itself to implement, install, utilize, and otherwise employ the federal and state mandated pollution controls, g) failing to require the securement of proper permits and/or the proper compliance with any permits issued including, but not limited to, land use and/or zoning permits, h)

allowing Defendants, Range, MarkWest and Williams Gas and Laurel Mountain to operate without meeting additional federal and state regulatory standards, requirements, as required by the Clean Air Act ("CAA"), 42 U S C §§7401-7671q, et seq, and other federal and state regulations, including Pennsylvania's Air Pollution Control Act ("APCA"), 35 P S §§ 4000 1-4015 et seq, Pennsylvania Clean Streams Law, 25 Pa Code § 78 60, and Pennsylvania's Storm Water Management Act, 32 P S §§ 680 1-680 17 et seq

83 Defendant, Mt Pleasant Township, despite the relevant and applicable zoning laws, ordinances, regulations and guidelines, allowed Defendants, Range, MarkWest and Williams Gas and Laurel Mountain to install, build and conduct natural gas drilling and processing activities on said land without properly securing needed permits and/or variances

84 In fact, Plaintiffs aver that relevant Township zoning laws with respect to Defendants, Range, MarkWest and Williams Gas and Laurel Mountain, were not properly followed and/or enforced by Defendant Mt Pleasant including, but not limited to, holding proper zoning hearings, providing residents proper notice of such hearings, implementing and enforcing proper permitting regulations, statutes, and ordinances with respect to Defendants natural gas and drilling activities, and enforcing its own ordinances, specifically Ordinance No 118 requiring that a natural gas drilling facility and/or its operations shall "comply with applicable permits and requirements of the Pennsylvania Department of Environmental Protection, the U S Environmental Protection Agency, and other governmental authority having jurisdiction over its operations, and with all federal, state and local laws, ordinances and regulations promulgated to protect the environment or otherwise relating to environmental matters "

85 Defendant's conduct and environmental violations subjects it to an Order to pay for related response costs, past and future, and for the other relief requested by Plaintiffs herein

PLAINTIFFS V. DEFENDANTS RANGE,
WILLIAM GAS AND LAUREL MOUNTAIN, MARKWEST
COUNT IV - VIOLATION OF THE HAZARDOUS SITES CLEANUP ACT

86 Paragraphs 1 through 85, above, are incorporated herein by reference, as if fully set forth

87 Defendants are all "persons" within the scope and meaning of Section 103, 35 P S §6020 103, of the Hazardous Sites Cleanup Act (hereinafter "HSCA")

88 Defendants generated a "hazardous substance" including, but not limited to, the aforesaid harmful chemicals and toxins in and by their aforesaid emissions, discharges and releases within the meaning and scope of Section 103, 35 P S §6020 103

89 Defendants are liable under Section 701 and section 507 of the HSCA as a responsible person who generated hazardous substances including, but not limited to, the aforesaid harmful chemicals and toxins, which substances were released or deposited in, on or around Plaintiffs' real property, and/or in the described areas and environment around their aforesaid Plants, and which caused and continue to cause a release, or threat of release, of hazardous substances, 35 P S §6020 701, 35 P S §6020 507

90 Defendants are liable under Section 507 and Section 1101 of the HSCA as one who caused and is causing a public nuisance by its generation and deposit of hazardous substances into and onto the soil of the Plaintiffs' properties, and into the ambient air, water, and ground, this in violation of all of the aforesaid provisions of the HSCA

91 As a direct and proximate result of the aforesaid release and/or threat of release of hazardous substances and/or the creation of a public nuisance by Defendants, Plaintiffs have and will incur response costs pursuant to Sections 702 and 1101

92 Response costs must include a Health Assessment Fund that will afford medical examinations for Plaintiffs, who were exposed to the hazardous substances contained in the

aforesaid releases and emissions by Defendants. The purpose of such an assessment is to determine if the Plaintiffs have actually suffered adverse health consequences from the aforesaid emissions and releases by Defendants, Range, MarkWest and Williams Gas and Laurel Mountain, and to assure that any adverse health consequences are caught as early as possible and mitigated via medical monitoring and/or medical treatment of same.

93 Defendants' aforesaid conduct and environmental violations subjects them to an Order to pay for related response costs, past and future, and for the other relief requested by Plaintiffs herein.

PLAINTIFFS V. DEP
COUNT V. - VIOLATION OF THE HAZARDOUS SITES CLEANUP ACT

94 Paragraphs 1 through 93, above, are incorporated herein by reference, as if fully set forth.

95 Defendant DEP is the entity charged with the duty to act on complaints under Section 103, 35 P S §6020 103, of the Hazardous Sites Cleanup Act (hereinafter "HSCA")

96 Specifically, Defendant DEP had and has a legal duty and obligation, and was and is required, to insure that Defendants herein comply with relevant federal and state regulations concerning emissions, particulates and releases from the aforesaid respective Plants and operations, including relevant permitting, modification, equipment maintenance, assessment, testing, health analysis, and other ambient and clean air related requirements and regulations.

97 Instead of carrying out its legal duties, Defendant DEP allowed Defendants to violate applicable and relevant federal and state environmental regulatory standards by a) releasing hazardous, noxious, harmful, and dangerous chemicals and substances into the air, water, and soil, b) failing to advise or provide public notice and/or warning to the public regarding same, c) failing to advise, warn, and/or provide notice to the DEP or other government

regulatory authorities concerning such releases, d) failing to require and/or undergo the necessary federal and state mandated assessments, testing, and determinations in connection with such releases, e) failing to require the implementation of, or itself to implement, install, utilize, and otherwise employ the federal and state mandated pollution controls, f) failing to require the securement of proper permits and/or the proper compliance with any permits issued including, but not limited to, land use and zoning permits, g) allowing Defendants, Range, MarkWest and Williams Gas and Laurel Mountain to operate their plants and facilities in compliance with federal and state emission limitations, and h) continuing to operate without meeting additional federal and state regulatory standards, requirements, as required by Section 103, 35 P S §6020 103, of the Hazardous Sites Cleanup Act (hereinafter "HSCA")

98 Instead of carrying out its regulatory duties, the DEP allowed the other Defendants to generate a "hazardous substance" including, but not limited to, the aforesaid harmful chemicals and toxins in and by the aforesaid emissions, discharges and releases within the meaning and scope of Section 103, 35 P S §6020 103

99 The DEP should have but failed to hold the other Defendants liable under Section 701 and section 507 of the HSCA as responsible person(s) who generated hazardous substances including, but not limited to, the aforesaid harmful chemicals and toxins, which substances were released or deposited in, on or around Plaintiffs' real property, and/or in the described areas and environment around their aforesaid facilities, and which caused a release, or threat of release, of hazardous substances, 35 P S §6020 701, 35 P S §6020 507

100 The DEP should have but failed to hold the other Defendants liable under Section 507 and Section 1101 of the HSCA as one who caused and is causing a public nuisance by their generation and deposit of hazardous substances into and onto the soil of the Plaintiffs'

properties, and into the ambient air, water, and ground, this in violation of all of the aforesaid provisions of the HSCA

101 As a direct and proximate result of the aforesaid release and/or threat of release of hazardous substances and/or the creation of a public nuisance by the other Defendants, Plaintiffs have and will incur response costs pursuant to Sections 702 and 1101

102 Defendant's aforesaid conduct and environmental violations subjects it to an Order to pay for related response costs, past and future, and for the other relief requested by Plaintiffs herein

PLAINTIFFS V. DEFENDANT MT. PLEASANT
COUNT VI. - VIOLATION OF THE HAZARDOUS SITES CLEANUP ACT

103 Paragraphs 1 through 102, above, are incorporated herein by reference, as if fully set forth

104 Defendant Mt Pleasant is the entity or entities charged with the duty to act on complaints under Section 103, 35 P S §6020 103, of the Hazardous Sites Cleanup Act (hereinafter "HSCA")

105 Specifically, Defendant Mt Pleasant had and has a legal duty and obligation, and was and is required, to insure that Defendants, Range, MarkWest and Williams Gas and Laurel Mountain herein comply with relevant federal and state regulations concerning emissions, particulates, and releases from their aforesaid respective Plants and operations, including relevant permitting, modification, equipment maintenance, assessment, testing, health analysis, and other ambient and clean air related requirements and regulations

106 Instead of carrying out its legal duties, Defendant Mt Pleasant allowed Defendants, Range, MarkWest and Williams Gas and Laurel Mountain to violate applicable and relevant federal and state environmental regulatory standards by a) releasing hazardous, noxious,

harmful, and dangerous chemicals and substances into the air, water, and soil, b) failing to advise or provide public notice and/or warning to the public regarding same, c) failing to advise, warn, and/or provide notice to the DEP or other government regulatory authorities concerning such releases, d) failing to require and/or undergo the necessary federal and state mandated assessments, testing, and determinations in connection with such releases, e) failing to require the implementation of, or itself to implement, install, utilize, and otherwise employ the federal and state mandated pollution controls, f) failing to require the securement of proper permits and/or the proper compliance with any permits issued including, but not limited to, land use and zoning permits, g) allowing Defendants, Range, MarkWest and Williams Gas and Laurel Mountain to operate their plants and facilities in compliance with federal and state emission limitations, and h) continuing to operate without meeting additional federal and state regulatory standards, requirements, as required by Section 103, 35 P S §6020 103, of the Hazardous Sites Cleanup Act (hereinafter "HSCA")

107 Instead of carrying out its regulatory duties, Defendant Mt Pleasant allowed said Defendants to generate a "hazardous substance" including, but not limited to, the aforesaid harmful chemicals and toxins in and by their aforesaid emissions, discharges and releases within the meaning and scope of Section 103, 35 P S §6020 103

108 Defendant Mt Pleasant should have but failed to hold said Defendants liable under Section 701 and section 507 of the HSCA as responsible person(s) who generated hazardous substances including, but not limited to, the aforesaid harmful chemicals and toxins, which substances were released or deposited in, on or around Plaintiffs' real property, and/or in the described areas and environment around their aforesaid facilities, and which caused a release, or threat of release, of hazardous substances, 35 P S §6020 701, 35 P S §6020 507

109 Defendant Mt Pleasant should have but failed to hold said Defendants liable under

Section 507 and Section 1101 of the HSCA as one who caused and is causing a public nuisance by its generation and deposit of hazardous substances into and onto the soil of the Plaintiffs' properties, and into the ambient air, water, and ground, this in violation of all of the aforesaid provisions of the HSCA

110 As a direct and proximate result of the aforesaid release and/or threat of release of hazardous substances and/or the creation of a public nuisance by said Defendants, Plaintiffs have and will incur response costs pursuant to Sections 702 and 1101

111 Defendant, Mt Pleasant Township, despite the relevant and applicable zoning laws, ordinances, regulations and guidelines allowed said Defendants to install, build and conduct, and continue to conduct, natural gas drilling and processing activities on said land without properly securing needed permits and/or variances

112 In fact, Plaintiffs aver that relevant Township zoning laws with respect to Defendants were not properly followed, adhereto, interpreted and/or enforced by Defendant Mt Pleasant including, but not limited to, holding proper zoning hearings, providing residents proper notice of such hearings, implementing and enforcing proper permitting regulations, statutes, and ordinances with respect to said Defendants natural gas and drilling activities, and enforcing its own ordinances, specifically Ordinance No 118 requiring that a natural gas drilling facility and/or its operations shall "comply with applicable permits and requirements of the Pennsylvania Department of Environmental Protection, the U S Environmental Protection Agency, and other governmental authority having jurisdiction over its operations, and with all federal, state and local laws, ordinances and regulations promulgated to protect the environment or otherwise relating to environmental matters "

113 Defendant's aforesaid conduct and environmental violations subjects it to an Order to pay for related response costs, past and future, and for the other relief requested by Plaintiffs

herein

PLAINTIFFS V. ALL DEFENDANTS
COUNT VII. - TRESPASS

114 Plaintiffs incorporate herein Paragraphs 1 through 113 of their Complaint as if set forth in full

115 Defendants, individually and/or through their agents, servants and/or employees, knowingly, intentionally, willfully, recklessly and/or negligently caused or allowed a wrongful physical entry onto, and contamination of, Plaintiffs' real property by depositing, and/or allowing and/or causing the deposit thereon, of the aforesaid toxic and hazardous substances or particulates, the release of which came from the aforesaid Defendants' respective facilities and plants

116 The aforesaid hazardous and toxic substances continue to contaminate Plaintiffs' real property, environment and the surrounding surface and subsurface areas thereof

117 Said deposits and contamination are illegal, unauthorized and unreasonable and without any consent or acquiescence of the Plaintiffs

118 Defendants had and continue to have a duty not to cause, permit or allow such hazardous and toxic substances to invade or deposit in or on the real property and environment of Plaintiffs, which duty Defendants breached and continue to breach

119 As a direct and proximate result of Defendants' aforesaid acts of trespass, Defendants have caused actual and substantial damage to Plaintiffs' exclusive possession of their real property and have unreasonably interfered with their use and enjoyment of their real property, and have caused physical and emotional injury and distress to Plaintiffs, all to their severe economic and non-economic detriment and injury Defendants are therefore liable for the cost to abate the aforementioned trespass and for all damages arising from the trespass

and any abatements, including compensatory and punitive damages, and should be subject to injunctive relief requested herein to halt the continuing trespass and to remove, and cease, any remaining pollution as described aforesaid, such as ground water wastes and other hazardous or toxic substances from Plaintiffs' property and environment

120 Defendants' aforesaid conduct and environmental violations subject them to an Order to pay for related response costs, past and future, and for the other relief requested by Plaintiffs herein

PLAINTIFFS V. ALL DEFENDANTS
COUNT VIII. - COMMON LAW PRIVATE NUISANCE

121 Plaintiffs incorporate herein Paragraphs 1 through 120 of their Complaint as if set forth in full

122 Plaintiffs, as owners of real estate located in this jurisdiction, have a right to the quiet use and enjoyment of their real property, as well as the right to travel to, use and gather in public places immediately surrounding their real property, including the said Defendants' respective plants and facilities

123 Defendants, as set forth in the preceding paragraphs, have created and maintained a continuing nuisance to Plaintiffs and others similarly situated by way of their conduct and aforementioned toxic, harmful, adverse and hazardous emissions, and releases

124 Defendants knew and/or should have known that the said releases and deposits of the aforesaid dangerous and harmful pollution and waste products onto or near the Plaintiffs' and others' real property, into their environment, and onto or near other property was substantially certain to result from their aforesaid actions and omissions, including causing a significant diminution of the value of Plaintiffs' property, and significant detriment to Plaintiffs' quality of life and use and enjoyment of their property

125. Defendants, as a result of releasing, depositing, allowing and/or causing the release and/or deposit of, the aforesaid dangerous and harmful pollution and waste products onto Plaintiffs' and others properties as described herein, and their failure to fully and adequately remediate such deposits, has caused an unwarranted, substantial and unreasonable and unlawful use of these properties as toxic dump sites and has substantially interfered with Plaintiffs' reasonable and safe use, development and enjoyment of their property and the community in which they are located

126. As a direct and proximate result of Defendants' creation and perpetuation of the aforesaid private nuisance, Plaintiffs have suffered a diminution in the value of their real property, as well as other direct and consequential economic damages including, but not limited to, the ability to sell their home for market value and having to sell their home with the need for disclosures pertaining to the aforesaid dangerous and harmful pollution and deposits of toxic substances on their real property, all of which adversely affected and affects their property and health

127 As a direct and proximate result of Defendants' intentional, willful, wanton, substantial and unreasonable interference with Plaintiffs' reasonable and safe use and enjoyment of their real property, Defendants are liable for the cost to abate and remediate the aforementioned nuisance, for all damages arising from said nuisance, including compensatory and punitive damages, and should be subjected to the injunctive relief requested herein, including the requiring of an immediate cessation of the said nuisance

128 Defendants' conduct and environmental violations subjects them to an Order to pay for the aforesaid response costs, past and future, and for the other relief requested by Plaintiffs herein

PLAINTIFFS V. ALL DEFENDANTS
COUNT IX. – NEGLIGENCE

129 Plaintiffs incorporate herein Paragraphs 1 through 128 of their Complaint, as if set forth in full

130 Defendants owe a duty of reasonable care to Plaintiffs and the public because Defendants are the owner and/or generator, regulators, and government agencies involved with the aforesaid harmful and adverse emissions and releases, and the generation of the herein described toxic and hazardous substances, from the said drilling, processing, and/or storage of natural gas to produce and sell energy for profit. Thus, Defendants owe a duty not to release, emit or expose real and personal property or persons, including Plaintiffs, to the aforesaid toxic and hazardous substances, and/or to permit same to infiltrate and emit into, onto and/or to contaminate their environment and communities

131 Defendants also intentionally, recklessly, wantonly, carelessly, and/or negligently violated and/or ignored and/or bypassed relevant zoning laws, ordinances, and regulations in designing, operating, inspecting, maintaining and/or continuing to operate their respective Plants and facilities

132 Defendants breached their aforesaid duty by, among other things, designing, operating, inspecting and/or maintaining their respective plants and facilities, and pollution control systems in substandard and/or unlawful fashion, and/or allowing this conduct to occur and continue to occur, by a) the release of hazardous, noxious, harmful, and dangerous chemicals into the air, water, and soil, b) the failure to advise or provide public notice and/or warning to the public regarding same, c) the failure to advise, warn, and/or provide notice to government regulatory authorities concerning such releases, d) the failure to have the necessary federal and state mandated assessments, testing, and determinations in connection

with such releases occur, e) the failure of the natural gas Defendants herein to implement, install, utilize, and otherwise employ the federal and state mandated pollution controls, f) the failure of the natural gas Defendant herein to operate their plants in compliance with federal and state emission limitations, g) the continuing operation of the said natural gas facilities without meeting additional federal and state regulatory standards, requirements, as required by the Clean Air Act ("CAA"), 42 U S C §§7401-7671q et seq and other federal and state regulations, including Pennsylvania's Air Pollution Control Act ("APCA"), 35 P S §§ 4000 1-4015 et seq, Pennsylvania Clean Streams Law, 25 Pa Code § 78 60, and Pennsylvania's Storm Water Management Act, 32 P S §§ 680 1-680 17 et seq , and for that conduct described in Paragraph 127 aforesaid

133 Defendants knew or reasonably should have known that their aforesaid conduct violated State and Federal air pollution laws and the Pennsylvania Hazardous Sites Cleanup Act and other State and Federal Environmental Laws, and that as a result of their aforesaid negligence, carelessness, gross negligence, willful or wanton conduct and/or recklessness, the aforesaid hazardous and toxic substances or releases or emissions would cause damage to the Plaintiffs' real and personal property and to their health and cause them repeated personal exposure to dangerous and toxic materials and the aforesaid nuisances

134 Moreover, Defendants' aforesaid acts and omissions were committed intentionally and/or with such gross negligence as to establish a wanton or reckless disregard for the rights, safety and health of Plaintiffs

135 At all relevant times, Defendants failed and refused, and continue to refuse, to assure the proper design, inspection, repair and safe and compliant use of the aforesaid plants and facilities, particularly the pollution control devices and equipment thereof, and have thereby acted negligently, grossly negligently, recklessly, carelessly and in violation of their

reasonable obligations to safeguard those owning and residing in the surrounding and adjacent areas, including Plaintiffs

136 As a direct and proximate result of their aforesaid negligence and outrageous conduct, Defendants are liable to Plaintiffs for the requested compensatory and punitive damages, as well as the herein requested injunctive relief to stop the continuing harmful emissions and releases from the aforesaid natural gas plants and facilities

137 Defendants' conduct and environmental violations subjects them to an Order to pay for the aforesaid response costs, past and future, and for the other relief requested by Plaintiffs herein

PLAINTIFFS V. RANGE,
WILLIAM GAS AND LAUREL MOUNTAIN, MARKWEST
COUNT X. – ULTRA-HAZERDOUS ACTIVITY

138 Plaintiffs incorporate herein Paragraphs 1 through 137 of their Complaint, as if set forth in full

139 Defendants owe a duty of reasonable care to Plaintiffs and the public because Defendants are the owner and/or generator, regulators, and/or government agencies responsible for the oversight, monitoring, and regulation of the aforesaid occurrence of the harmful and adverse emissions and releases, and the generation of the herein described toxic and hazardous substances from the aforesaid drilling, processing and/or storage of natural gas to produce and sell energy for profit. Thus, Defendants owe a duty not to release, emit or expose real and personal property or persons, including Plaintiffs, to the aforesaid toxic and hazardous substances, and/or to permit same to infiltrate and emit into, onto and/or to contaminate their environment and communities. Defendants had a duty to regulate, monitor, and make the public aware of any ultra-hazardous, harmful and/or dangerous activities

140 Defendants also intentionally, recklessly, wantonly, carelessly, and/or negligently violated and/or ignored and/or bypassed relevant zoning laws, ordinances, and regulations in designing, operating, inspecting, maintaining and/or continuing to operate their respective Plants and facilities

141 Defendants are engaged in and/or allowing an ultra-hazardous activity in the drilling, processing, and/or storage of natural gas to produce and sell energy for profit, wherein such a) necessarily involves a risk of serious harm to the person, land, or chattels of others which cannot be eliminated by the exercise of the utmost care, and (b) is not a matter of common usage

142 The aforesaid natural gas explosion occurring on March 2, 2011 is an example by which Defendant's conduct constitutes and allows an ultra-hazardous activity in the drilling, processing, and/or storage of natural gas to produce and sell energy for profit, and Defendants continue to engage in and allow activity that constitutes ultra-hazardous activities

143 Defendants breached their aforesaid duty by, among other things, designing, operating, inspecting and/or maintaining their respective plants and facilities and pollution control systems in substandard and/or unlawful fashion, and/or allowing this conduct to occur and continue to occur by a) the release of hazardous, noxious, harmful, and dangerous chemicals into the air, water, and soil, b) the failure to advise or provide public notice and/or warning to the public regarding same, c) the failure to advise, warn, and/or provide notice to government regulatory authorities concerning such releases, d) the failure to have the necessary federal and state mandated assessments, testing, and determinations in connection with such releases occur, e) the failure of the natural gas Defendants herein to implement, install, utilize, and otherwise employ the federal and state mandated pollution controls, f) the

failure of the natural gas Defendants herein to operate their plants in compliance with federal and state emission limitations, g) the continuing operation of the said natural gas facilities without meeting additional federal and state regulatory standards, requirements, as required by the Clean Air Act ("CAA"), 42 U S C §§7401-7671q et seq and other federal and state regulations, including Pennsylvania's Air Pollution Control Act ("APCA"), 35 P S §§ 4000 1-4015 et seq, Pennsylvania Clean Streams Law, 25 Pa Code § 78 60, and Pennsylvania's Storm Water Management Act, 32 P S §§ 680 1-680 17 et seq

144 Defendants knew or reasonably should have known that their aforesaid conduct constitutes an ultra-hazardous activity and violates State and Federal air pollution laws and the Pennsylvania Hazardous Sites Cleanup Act and other State and Federal Environmental Laws, and that as a result of their aforesaid negligence, carelessness, gross negligence, willful or wanton conduct and/or recklessness, the aforesaid hazardous and toxic substances or releases or emissions, would cause damage to the Plaintiffs' real and personal property and to their health and cause them repeated personal exposure to dangerous and toxic materials and the aforesaid nuisances

145 Moreover, Defendants' aforesaid acts and omissions were committed intentionally and/or with such gross negligence as to establish a wanton or reckless disregard for the rights, safety and health of Plaintiffs

146 At all relevant times, Defendants failed and refused, and continue to refuse, to assure the proper design, inspection, repair and safe and compliant use of the aforesaid plants and facilities, particularly the pollution control devices and equipment thereon, and have thereby acted negligently, grossly negligently, recklessly, carelessly and in violation of their reasonable obligations to safeguard those owning and residing in the surrounding and adjacent areas, including Plaintiffs

147 As a direct and proximate result of their aforesaid negligence and outrageous conduct, Defendants are liable to Plaintiffs for the requested compensatory and punitive damages, as well as the herein requested injunctive relief to stop the continuing harmful emissions and releases from the aforesaid natural gas plants and facilities

148 Defendants' conduct and environmental violations subjects them to an Order to pay for the aforesaid response costs, past and future, and for the other relief requested by Plaintiffs herein

PLAINTIFFS V. DEP AND MOUNT PLEASANT TOWNSHIP DEFENDANTS
COUNT XI. – VIOLATION OF 42 U.S.C.S. § 1983.

149 Plaintiffs incorporate herem Paragraphs 1 through 148 of their Complaint, as if set forth in full

150 At or around November 1, 2006, Defendant Pennsylvania Department of Environmental Protection ("DEP") and Defendants, Mt Pleasant Township, Mt Pleasant Township Board of Supervisors, Mt Pleasant Township Planning Commission and Mt Pleasant Township Zoning Hearing Board (collectively "Mount Pleasant"), have had and continue to have knowledge of or reasonably should have been aware of the significant and substantial water, air, and soil pollution, contamination, and risks and harms, at or around Plaintiffs' property, as a result of Defendants' gas drilling operations, storage, and activities

151 Defendant Pennsylvania Department of Environmental Protection ("DEP") and Defendants, Mt Pleasant Township, Mt Pleasant Township Board of Supervisors, Mt Pleasant Township Planning Commission and Mt Pleasant Township Zoning Hearing Board (collectively "Mount Pleasant"), have had and continue to be working under the color of state law, in failing to properly monitor, regulate, warn, and otherwise act upon the substantial water, air, and soil pollution, contamination, and risks and harms, at or around Plaintiffs'

property

152 Defendant Pennsylvania Department of Environmental Protection ("DEP") and Defendants, Mt Pleasant Township, Mt Pleasant Township Board of Supervisors, Mt Pleasant Township Planning Commission and Mt Pleasant Township Zoning Hearing Board (collectively "Mount Pleasant"), have had and continue to be working under their official authority, in failing to properly monitor, regulate, warn, and otherwise act upon the substantial water, air, and soil pollution, contamination, and risks and harms, at or around Plaintiffs' property

153 Despite having knowledge or reasonably being aware of such significant and substantial water, air, and soil pollution, contamination, and risks and harms, at or around Plaintiffs' property, as a result of Defendants' gas drilling operations, storage, and activities, the DEP and Mount Pleasant, have intentionally, deliberately, recklessly, and negligently, disregarded Plaintiffs' numerous complaints and concerns

154 Such deliberate indifference by the DEP and Mount Pleasant, are conduct by state actors that shocks the conscious concerning the public health and welfare and environmental protection of the community

155 Plaintiffs, as residents of Mount Pleasant Township and of the Commonwealth of Pennsylvania and privy to the constitutional protections of the United States Constitution, including but not limited to 42 U S C S § 1983 Plaintiffs' have a constitutional right be free from reasonably foreseeable and direct harm as a result of Defendants' gas drilling operations, storage, and activities The DEP and Mount Pleasant have disregarded Plaintiffs' safety and well-being, and right to reside in their home, without nuisance, or the risk of environmental harm or concern over safety

156 Defendant s DEP and Mount Pleasant affirmatively used their authority, including but

not limited to failure to enforce relevant environmental laws and regulations, in a manner that has and continues to cause Plaintiffs substantial harms, both environmental, health, and public safety

157 Defendants' conduct and environmental violations subjects them to an Order to pay for the aforesaid response costs, past and future, and for the other relief requested by Plaintiffs herein

WHEREFORE, Plaintiffs, respectfully request this Honorable Court to

(a) Issue an Order that Defendants, Range, MarkWest and Williams Gas and Laurel Mountain, must cease and desist from operating their plants and facilities unless and until they can operate same in a legal, properly permitted, properly zoned, safe, responsible, prudent and proper manner so as to prevent continuation of the aforesaid chronic, harmful, and illicit emissions and releases and nuisances, that have harmed, and in the future will harm, Plaintiffs' real and personal property and their environment and persons,

(b) Issue an Order requiring Defendants to fund a Health Assessment Study, as authorized by HSCA, that is sufficient to assess and determine any adverse health effects resulting from Plaintiffs' exposure to Defendants' aforesaid emissions, releases and other harmful materials through all relevant exposure pathways, such as inhalation and direct contact,

(c) Issue an Order requiring Defendants to fund medical monitoring of Plaintiffs in the event the aforesaid Health Assessment Study establishes that they have suffered physical injury, disease or illness from exposure to the aforesaid emissions and releases, and/or are reasonably likely to in the future,

(d) Issue an Order requiring Defendants to immediately prove the compliance with all pertinent zoning and land use laws and, if not in compliance, to become compliant immediately,

(e) Issue an Order requiring Defendants DEP and Mt Pleasant to produce the following information regulatory, operating, and safety data and information

- 1 Comprehensive listing of all chemicals used by Defendants in their *fracturing and gas drilling process, including but not limited to acrylonitrile and other volatile organic compounds (VOCs),*
- 2 Any and all engineering and dispersion modeling (water and wind),
- 3 Any and all documents setting forth fracking and gas drilling process,
- 4 Any and all documents setting forth risks and benefits of *fracturing and gas drilling process,*
- 5 Any and all documents relating to Defendant Range Resources drilling activities and installation of Stewart Well # 8 (September 2007), located 1000 feet from Plaintiffs' property, and others including the Stewart Well # 1, # 4, and # 6, also surrounding Plaintiffs' property,
- 6 Any and all monitoring and/or testing of above gas wells on water supply,
- 7 Any and all impact, environmental, exposure, and/or health assessment studies,
- 8 Any and all DEP reporting, violations, fines, notices,
- 9 Any and all documents pertaining to the Bricklemeyer's Complaint to the DEP regarding contamination of the water supply by Stewart Well # 8,

- 10 Any other complaints of water, air, and soil contamination,
- 11 A comprehensive listing of all unauthorized releases (i.e. noxious gas,
hazardous substances) by Defendants and known valve malfunctions,
including but not limited to June 28, 2009, October 20, 2009,
December 9, 2009, April 16, 2010, and as recently as of August 3,
2010,
- 12 Any and all monitoring and/or testing of above noxious gas releases,
- 13 Any and all impact, environmental, exposure, and/or health assessment
studies of such noxious gas releases,
- 14 Any and all DEP reporting, violations, fines, notices of such noxious
gas releases,
- 15 Any and all DEP permitting, consent decrees, and regulatory docs,
- 16 Any and all DEP monitoring and/or testing of above noxious gas
releases,
- 17 Any and all DEP impact, environmental, exposure, and/or health
assessment studies of such noxious gas releases,
- 18 Any and all DEP reporting, violations, fines, notices of such noxious
gas releases,

(f) Award all compensatory damages suffered by Plaintiffs in an amount that fairly compensates them for their aforesaid damages and losses including, but not limited to, the personal injuries they suffered and continue to suffer, and the diminution of their property value, together with interest, attorney fees and costs,

(g) Award punitive damages to Plaintiffs,

(h) Award response costs, pursuant to HSCA, to compensate Plaintiffs for environmental studies and health risk studies, as well as to compensate them for any future response costs, including whatever additional remediation is needed to their property to return it to a pre-contamination condition,

(i) Allow Plaintiffs' environmental engineering experts, at Defendants' expense, to immediately inspect and evaluate Defendants' respective plants and facilities for compliance with all pertinent environmental laws,

(j) Appoint an independent environmental consultant to inspect Defendants' plants and facilities, issue a report on their deficiencies, and to assure that the appropriate corrections are instituted to safeguard the Plaintiffs from the aforesaid harmful emissions, particulates, and releases, and waste deposition caused by said plants and facilities at Defendants' expense,

(k) Award Plaintiffs costs and reasonable attorney fees to their attorneys, and,

(l) Award Plaintiffs such other and further relief as the Court deems just and equitable under the circumstances

Respectfully submitted,

VILLARI, BRANDES & KLINE, P C

BY _____

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Tele 610-729-2900
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Attys for Plaintiffs

MARCH 10, 2011

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand that a trial of all issues be heard by a Judge sitting with jury

Respectfully submitted,

VILLARI, BRANDES & KLINE, P C

BY _____
Peter M Villari, Esquire
Paul D Brandes, Esquire
Attorney I D # 26875, 59769
161 Washington Street,
8 Tower Bridge, Suite 400
Conshohocken, PA 19428
Tele 610-729-2900
Fax 610-729-2910
Attys for Plaintiffs

MARCH 10, 2011

• •

EXHIBIT
B
(FILED
UNDER
SEAL)

EXHIBIT C

VILLARI, BRANDES & KLINE, P.C.

By Peter M. Villari, Esquire
Attorney I D Nos : 26875
8 Tower Bridge, Suite 400
161 Washington Street
Conshohocken, PA 19428
610-729-2900

Attorneys for Plaintiffs

**IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY,
PENNSYLVANIA
PREMISES LIABILITY ACTION – CIVIL CASE**

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W,

Plaintiffs,

v

RANGE RESOURCES CORPORATION;
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P., MARKWEST
ENERGY GROUP, L.L.C , and
PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Defendants

CIVIL ACTION

Docket No. 2010-3954

PLAINTIFFS' AFFIDAVIT

Plaintiffs, Stephanie and Chris Hallowich, hereby submit the following affidavit
and attest that:

1. With respect to Plaintiff minors' alleged claims involve nuisance and
personal injury claims, there is presently no medical evidence that these symptoms are
definitively related to any exposure to the activities of Defendants set forth in Plaintiffs'

2 The minors have alleged claims for nuisance and personal injury in connection with Defendants' business operations. There is presently no medical evidence supporting that these claims are related to any exposure to Defendants' business operations as set forth in Plaintiffs' Complaint. See Exhibit A. And presently, the minors are healthy and have no symptoms that may allegedly be related to Defendants' business operations.

3 Based upon the facts and circumstances of the case and on behalf of our minor children, we believe and certify that the proposed settlement, as set forth in the Petition, is reasonable and fair.

BY Stephanie Hallowich
Stephanie Hallowich

Date 7/25/11

BY Chris Hallowich
Chris Hallowich

Date 7/25/11

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W

V

Defendants.

Docket No. 2010-3954

**JOINT MOTION TO FILE
PETITION FOR APPROVAL OF
SETTLEMENT OF MINORS'
ACTIONS UNDER SEAL**

~~FILED~~

~~PHYLLIS RANKO MATHENY
PROTHONOTARY
WASHINGTON COUNTY PA~~

AND NOW, on this ____ day of August, 2011, upon consideration of the Joint Motion to File Petition for Approval of Minors' Actions Under Seal, and the Confidential Agreement attached thereto, it is hereby ORDERED that said Motion is GRANTED.

J.

✓

) Docket No. 2010-3954

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FEDERAL BUREAU OF INVESTIGATION
WASHINGTON 25, D.C.
U.S. DEPARTMENT OF JUSTICE

1

1 On May 27, 2010, the Plaintiffs, Stephanie and Chris Hallowich, filed a Praecipe to Issue Writ of Summons in the Court of Common Pleas of Washington County, Pennsylvania captioned "Stephanie Hallowich and Chris Hallowich, H/W v. Range Resources Corporation, Williams Gas/Laurel Mountain Mid-Stream, MarkWest Energy Partners, L.P., MarkWest Energy Group, L.L.C., and Pennsylvania Department of Environmental Protection", Docket No. 2010-3954

2. Thereafter, on June 24, 2011, all Parties, excluding the Pennsylvania Department of Environmental Protection, entered into the Settlement Agreement and Release ("Confidential Agreement") to resolve the above-captioned matter.

3 The Confidential Agreement also resolves certain alleged claims of Plaintiffs' minor children.

4. The Confidential Agreement is subject to specific confidentiality provisions agreed to by the Parties.

5. Because the Confidential Agreement must be presented as part of a Petition to the Court for approval of the settlement of the minors' claims, pursuant to Pa R C P 2039 and Local Rule 2039.1, the Parties respectfully request permission to file the Petition for Approval of Settlement of Minors' Actions, and the Confidential Agreement attached thereto, under seal

WHEREFORE, the Parties respectfully request the Court permit the filing of the Petition for Approval of Settlement of Minors' Actions, and the Confidential Agreement attached thereto, under seal

Respectfully submitted,

VILLARI, BRANDES & KLINE, P.C.

BY: 

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BY

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Gas drillers battle Pennsylvania pollution concerns

Sun, May 3 2009

By Jon Hurdle

HICKORY, Pennsylvania (Reuters) - U.S. energy companies rushing to exploit Pennsylvania's massive natural gas reserves have launched a public relations campaign to calm fears the bonanza is contaminating water with toxic chemicals.

Drillers are holding public meetings to assure people the chemicals used to help extract gas from Pennsylvania's majority share of the Marcellus Shale cannot escape into drinking-water wells.

Though scientists have yet to find definitive evidence that drilling chemicals have seeped into ground water, there are dozens of anecdotal reports from around the state that water supplies in gas-production areas have been tainted.

The public outcry threatens to impede exploitation of the 44-million-acre (18-million-hectare) Marcellus Shale, which geologists say might contain enough natural gas to meet U.S. demand for a decade.

People in gas-drilling areas say their well water has become discolored or foul-smelling, their pets and farm animals have died from drinking it, and their children have suffered from diarrhea and vomiting.

Bathing in well water can cause rashes and inflammation, and ponds bubble with methane that has escaped during drilling, they say.

That's the challenge facing Matt Pitzarella, a spokesman for Texas-based Range Resources Corp. who recently told around 150 residents at the Hickory fire hall that new drilling techniques are much less damaging to the landscape than traditional ones, and that energy companies are subject to strict environmental regulations.

Other companies such as Chief Oil & Gas and Chesapeake Energy Corp. have held community meetings.

Over a dinner of beef stew, baked beans and coleslaw hosted by Range, Pitzarella said the company encased its drilling shafts in layers of steel and concrete to ensure that chemicals used to help fracture the gas-bearing rock cannot escape into aquifers.

"There are zero reports of chemical contamination of groundwater," he said.

Ron Gulla, who said his land has been polluted by Range's gas drilling, was incredulous.

"I have never seen such a bunch of liars in my life," he shouted at Pitzarella, to scattered applause. "You have put me through hell."

This is how the battle lines are being drawn in the U.S. struggle to reduce dependence on foreign oil and cut carbon emissions. Marcellus is the largest of the U.S. shale gas reserves, which are trapped in sedimentary beds making it more costly to extract. (For a map of shale reserve estimates, click link.reuters.com/tu774c).

SULFUROUS SMELL

In rural Clearville, south-central Pennsylvania, Spectra Energy Corp. is drilling to establish an underground gas storage facility.

Sandra McDaniel, 63, said federal authorities forced her, through eminent domain laws, to lease about five acres (2 hectares) of her 154 acres to Spectra to build a drilling pad on a wooded hilltop.

McDaniel watched from the perimeter of the installation as three pipes spewed metallic gray water into plastic-lined pits, one of which was partially covered in a gray crust. As a sulfurous smell wafted from the rig, two tanker trucks marked "residual waste" drove from the site.

"My land is gone," she said. "The government took it away, and they have destroyed it."

Back in Hickory, Pitzarella acknowledged that water quality was the "No. 1 concern" but denied there was any escape of chemicals used in hydraulic fracturing, or "fracking."

Drilling injects chemicals thousands of feet below the aquifers, and companies haul away waste water for treatment when the operation is finished, Pitzarella told the meeting.

Residents say escaped methane has caused some well water to become flammable, and its buildup has led to at least one explosion in a drinking water well. Many people in drilling areas drink only costly bottled water.

Pennsylvanians say they have not found fracking chemicals in their water only because they have not known what to test for, and because of the cost of testing.

Although the state's Department of Environmental Protection publishes a list of 54 chemicals that may be used in fracking, companies won't disclose what goes into the fluid, calling the information proprietary.

The composition of fracking fluid has been unregulated since the oil and gas industry won exemptions in 2005 from federal environmental laws including the Clean Water Act and the Safe Drinking Water Act.

According to the Endocrine Disruption Exchange, a Colorado research group that has investigated the health risks of fracking chemicals, about a third may cause cancer; half could damage the brain and nervous system, and almost 80 percent have the potential to harm skin, eyes and sensory organs.

Fracking chemicals include benzene, a carcinogen, plus toluene, methanol and 2-butoxyethylene, a substance that can reduce human fertility and kill embryos, according to Damascus Citizens for Sustainability, a group that opposes drilling.

Range's Pitzarella said the chemicals make up only 0.05 percent of the fracking mixture, and that they include unspecified substances commonly used in households such as a friction reducer like that used in contact lenses and a biocide disinfectant used in swimming pools.

Stephanie Hallowich, 37, a mother of two, said she and her husband Chris moved to the outskirts of Hickory from suburban Pittsburgh 18 months ago for a quiet rural life but are now closely surrounded by four gas wells, a three-acre (1.2 hectare) reservoir containing water for drilling, a liquid extraction plant, and a gas compressor station.

Concerned about noise, air quality and her children's health, Hallowich would like to move but can't believe anyone would buy her house.

"I don't want to find out in five years' time that my kids have cancer," she said.

Wayne Smith, 52, a Clearville farmer, said he made about \$1 million in royalties over three years from gas taken from under his 105 acres, but he now wishes he never signed the lease and wonders whether tainted water is responsible for the recent deaths of four of his beef cattle, and his own elevated blood-iron level.

Smith would like to get his water tested for the full range of fracking chemicals but he can't do that without specifics on the fluid's composition. "We don't know what's in it," he said. "They won't tell us."


(Editing by Daniel Trotta and Eric Walsh)




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Gas drillers battle Pennsylvania pollution concerns

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Photo 1/13

Stephanie Balouch (R) and her daughter Alison look out over a three-acre reservoir supplying water to natural gas-drilling operations around her house in Pickering, Pennsylvania, April 25, 2009.
[\(AP Photo/David J. Phillip\)](#)

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US seeks independence with natural gas

By Matthew Price
BBC News, Pennsylvania

The hawk flies just above the car as it rounds the corner. It glides through the trees, and comes to rest on a branch.

Around the next corner, the road opens out into a fold between the hills. An old farmhouse and barn sits up slightly to the left.

This is rural Pennsylvania - lush, green, and refreshingly cooler than the humid east coast at this time of year.

And hidden underneath all this beauty, a natural resource that could answer the US's energy prayers.

Around another small hill, and along a gravel track, sits a gas platform. It is drilling down into what is the largest natural gas field to be discovered in the US.

'Energy independence'

The company drilling here is Range Resources, and according to its vice-president, Stephen Rupert, natural gas could help break this country's dependence on foreign oil.

"Natural gas is our cleanest fossil fuel. It can be used in cars, to generate electricity. It can be liquefied and used as jet aviation fuel," he says.

Then comes the killer comment, as far as US politics is concerned right now. "The natural gas that's being used in this country at this time can really get us to energy independence."

"Energy independence" has almost become the Holy Grail in the US.

Here, the environmental debate often does not concern saving the planet, or reducing the effects of human action on the global climate.

Instead it is couched in terms of how the US can get its energy from sources other than Middle Eastern countries, from whom it currently buys the majority of its oil.

There are still those here who doubt the science and deny that human actions are causing climate change.

It is easier to sell the idea that changing where the US gets its fuel from will make the country less reliant on potentially difficult regimes.

For a while that argument helped encourage environmentalists that this country was entering a new phase, in which it would generate clean, green energy.

Now, some of them fear natural gas discoveries may be delivering (inexpensive) energy independence, without delivering a sustainable solution to the country's energy needs.

'Short term'

In the laboratories of Pittsburgh University, Laura Schaefer is huddled with a student next to a computer screen. A software program mimics river water flows in bright reds and oranges and yellows.



" [Natural gas] is a good bridge technology, but it's not the be-all-and-end-all of energy generation "
Laura Schaefer University of Pittsburgh

Here, they are trying to develop alternative sources of energy

Natural gas may be cleaner than oil - It produces around half the greenhouse gasses for the same amount of energy - but Ms Schaefer does not believe it is the answer the US needs

"We have to stop looking at the short term. Sure we can find enough fuel for the next two years, five years, 10 years, but what happens at that point when we haven't built up our renewable or alternative energy technologies?" she asks

And Ms Schaefer fears the focus on new natural gas discoveries could diminish funding for those seeking new alternative energy sources.

"I do. [Natural gas] is a good bridge technology, but it's not the be-all-and-end-all of energy generation," she says

'Green revolution'

Earlier this year, President Barack Obama proclaimed that the US could "become the world's leading exporter of renewable energy".

" We've had problems with water, we've had air quality issues, there's an odour which has made us sick "
Stephanie Hallowich

His Energy Secretary, Steven Chu, is a highly respected environmentalist and the Obama administration sees natural gas as a transition fuel that can help lead this country towards a new clean economy

Many in rural Pennsylvania are also optimistic. The gas industry is leasing land from local owners - there is good money to be made. But not everyone is happy.

Stephanie Hallowich and her family are surrounded by natural gas wells.

"We've had problems with water, we've had air quality issues, there's an odour which has made us sick," she says

"We have two children. We have huge issues about their health."

She is by no means the only one. Several families living close to gas extraction areas across the country have reported problems, and a number of court cases are progressing.

The gas companies insist they are not harming the environment. Scientists argue the processes they use to extract the gas could be cleaned up.

For many though, any environmental costs are outweighed by the economic benefits. Natural gas is seen here as a realistic alternative source of fuel - to be used in cars, in homes, to power industry and business.

Americans use more energy than anyone else on the planet. Natural gas is cheap, and available.

It is not the "green revolution" some, including President Obama once spoke of. But it may be now, in the short term at least, the US chooses to meet its energy needs.

Story from BBC NEWS
<http://news.bbc.co.uk/1/hi/americas/8224295.stm>

Published: 2009/08/27 13:57:35 GMT

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Wells of wealth -- or woe? Questions waft from Marcellus Shale drilling sites

Thursday, July 29, 2010
By Janice Crompton, Pittsburgh Post-Gazette



Pam Panchak/Post-Gazette

Chris Hallowich, Nathan Hallowich, 9, Stephanie Hallowich and Alyson Hallowich, 5, stand on a hillside near their home to illustrate the proximity of several of the gas wells that practically surround their home and property. The roof of the Hallowich house can be seen in the upper left of the photo. One of the wells, the control facility and a 3-acre reservoir built to support the drilling operations are visible in the background between the family and their home.



As Pittsburgh begins addressing concerns that the city could be the next stop on the Marcellus Shale wagon train, and the state wrestles with regulations and a possible new tax on the natural gas drilling industry, many people are wondering: What is this 21st century gold rush -- and how will it affect me?

The question was brought to the forefront last week when 1,200 people turned out for a public hearing in Washington County held by the federal Environmental Protection Agency to explain its new study of a controversial method to extract natural gas from the shale and how it may affect the environment, specifically water supplies.

The \$1.9 million study comes on the heels of concerns expressed by local land owners and environmental groups, who fear that the extraction method -- called hydraulic fracturing and known as "fracking" -- is environmentally unsafe and should be subject to tighter regulations.

To reach the Marcellus Shale, a geologic formation that is dimpled with enormous pockets of natural gas, drilling companies typically bore into the ground at depths of 5,000 feet to 8,000 feet. Then they drill horizontally for up to two miles.

After the drilling is completed, a cocktail of water and other ingredients, some of which are toxic chemicals, is blasted through high-pressure water lines into the drill hole, fracturing the shale and releasing the natural gas.

The fracking process, and the toxic ingredients in the fracking fluid, are the primary concerns cited by property owners, who are worried about the environment, their property values and their families' health.

The history

The Marcellus Shale got its name from a village near Syracuse, N.Y., where outcroppings of the organic-rich black rock were found in 1839.

The bulk of the 450-million-year-old formation, however, is thousands of feet underground in a large swath that spans 60 million acres of the Appalachian basin from its southernmost point in Tennessee, north through large portions of West Virginia,

eastern Ohio, Pennsylvania and southern New York

Drilling in the Marcellus Shale began in earnest in 2004 and 2005, when Range Resources, based in Fort Worth, Texas, drilled three exploratory wells in Washington County

With advances in horizontal drilling technology and climbing gas prices, the industry has exploded in Pennsylvania, with 2,500 drilling permits issued by the state from 2007 to 2009 and another 5,000 expected this year. So far, 1,600 wells have been drilled, with the hope of tapping some of the estimated 363 trillion cubic feet of natural gas in the Marcellus Shale.

In the next 20 years, experts believe up to 50,000 additional wells could be drilled -- enough to supply the nation's energy needs for 15 years.

The economics

With as much as \$2 trillion worth of natural gas trapped in the Marcellus Shale, it's no wonder gas and oil companies from Texas, Colorado and Oklahoma have been flocking to southwestern Pennsylvania, where a perfect storm of sorts exists for drilling companies.

Unlike West Virginia, which is slipping behind Pennsylvania in the number of wells drilled, Pennsylvania has no severance tax yet on natural gas extraction, but one is expected to be approved by the state Legislature later this year. New York recently placed a one-year moratorium on new drilling while the environmental impacts are assessed.

Then there's the infrastructure

A national gas pipeline originating in the gas fields of Texas and Oklahoma slices through Pennsylvania, with additional miles of pipe being laid by the week in places such as Washington County, making the state a major transmission hub to the energy-strapped East Coast.

In addition, Pennsylvania has more miles of freshwater streams than any other state except Alaska, which is important because the average Marcellus Shale gas well uses 3.5 million gallons of water for drilling and fracking.

"Pennsylvania is rapidly becoming the energy center of the East," said Lou D'Amico, executive director and president of the Pennsylvania Oil & Gas Association, a nonprofit industry group. "Geologists say [Marcellus Shale] contains the same or more Btu's than the Saudi Arabian oil fields, so this is huge."

A Btu, or British thermal unit, is the unit typically used to measure energy.

Because natural gas burns cleaner than oil or coal -- it produces fewer greenhouse gas emissions -- it has been touted by the industry and supporters as the ideal "transition" fuel, bridging the gap between fossil fuels and renewable energy sources.

An industry-funded study by Pennsylvania State University in August 2009 found that the Marcellus gas industry in Pennsylvania generated \$2.3 billion in 2008, with \$240 million in state and local tax revenue and more than 29,000 jobs created.

"With a substantially higher pace of development during 2009, economic output will top \$3.8 billion, state and local tax revenues will be more than \$400 million and total job creation will exceed 48,000," according to the study.

Within the next 10 years, the study estimated, the industry could be generating \$13.5 billion and nearly 175,000 jobs.

More and more of the impact of the drilling is being felt locally, from property owners who are realizing thousands of dollars in royalties and lease agreements to local workers who are being trained through new education programs at local colleges.

The industry is pumping millions into local businesses, from hotels to restaurants to car dealers, and it's being credited for revitalizing other industries, such as trucking and railroads.

But the outlook isn't all rosy.

The downside

State Sen. Jim Ferlo, D-Highland Park, has introduced a bill proposing a one-year moratorium on new drilling, similar to the measure in New York, and Pittsburgh City Council passed a resolution July 20 that supports such a ban until tighter regulations

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are in place for the industry.

Although no drilling has been proposed within Pittsburgh's boundaries, leasing agents have approached residents in the city neighborhood of Lawrenceville, prompting Councilman Bill Peduto to characterize the issue as "a battle between the industry and the community."

Such battle lines have been drawn elsewhere, including at the Hallowich home in Mount Pleasant, Washington County.

Homeowners Stephanie and Chris Hallowich have traveled the state, talking to land owners and offering advice to those who are considering leasing their property for drilling

Believing they were purchasing their dream property of 10 acres in the countryside, the couple in 2005 inadvertently inherited a gas lease signed by the previous owner

"We had not a clue that anything was going on," said Mr. Hallowich, a Fort Cherry High School history teacher "We tried to do our homework."

Shortly after they built a two-story home, four gas wells popped up just outside of their property, along with access roads, a gas processing facility and several compressing stations

The family is now in litigation with the state, drilling operators and processing companies over what they claim is contamination of their water well caused by the drilling and because of noxious fumes that prevent their children from playing outside most days.

They said they can't sell their home because real estate agents aren't interested and many loan companies won't approve mortgages for homes close to gas wells That includes the U.S. Department of Housing and Urban Development, which won't approve loans for homes within 300 feet from an active or planned drilling site because the drilling poses "potential hazards to housing, including potential fire, explosion, spray and other pollution," according to the agency's website.

Other homeowners have lodged concerns about the disposal of fracking fluids, which contain cancer-causing chemicals; runoff from retention ponds used to hold wastewater from the drilling process, and gas well blowouts, including one that caused an explosion last month in Clearfield County.

Lawnakers heard more concerns Monday during a U S Senate hearing on emergency response procedures in the gas well industry that was held in Downtown Pittsburgh.

Jane Chappel of Hopewell, Washington County, told those at the hearing that she feared for her life when the liner of a wastewater pit caught fire near her home.

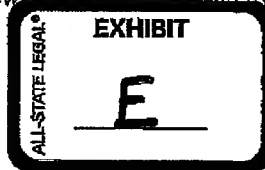
Concerns also have been raised about the safety of the food chain, after a herd of 28 cattle was quarantined recently in Tioga County when its drinking water was contaminated from a leaking wastewater pond reportedly full of fracking fluid

The Hallowichs do not oppose drilling but want to tell other property owners about the lessons they're learning the hard way

"We just want people to be aware of what's going on," Mr. Hallowich said.

Jane Crampton: jcrampton@post-gazette.com 724-223-0155

September 5, 2010 8:33 PM



A Burning Debate Over Natural Gas Drilling

By **Armen Keteyian**

The natural gas-producing shale that lies under 34 states is now being seen as a game-changer in helping meet the nation's energy needs for decades to come. But the process of extracting that natural gas, dubbed "fracking," is fueling environmental fears **CBS News chief investigative correspondent Armen Keteyian has more**

"You can't live like this - it's so stressful every single day."

Homeowner Stephanie Hallowich is like many in western Pennsylvania who have watched their once-pristine neighborhood become an industrial site. Sprawling plants with flares that reach high into the night, noxious smells, trucks, and containment ponds with unknown chemicals are among the complaints of people who live in areas where natural gas companies have descended.

Hallowich believes three natural gas-drilling operations bordering her property turned her well-water black, forcing her to purchase a tank of fresh water every month.

The air? Uncertain.

"I'm very afraid, health-wise, for the kids, just because of the exposure to the water and the constant not-knowing what we're breathing in outside," she said.

The Hallowich home sits near the center of the Marcellus Shale, an energy-rich geological formation stretching from New York to Tennessee.

Three-quarters of Pennsylvania contain vast energy riches buried deep underground in shale formations, representing hundreds of billions of dollars in untold wealth locked up in rock - a potential goldmine for natural gas companies.

"The development of shale gas in the Marcellus and across the country is a very important part of the nation's energy strategy," said Kathryn Klaber, president of the Marcellus Shale Coalition, a natural gas industry group.

Big players are rushing in. Exxon has invested \$30 billion in the Marcellus in recent months. Foreign investors are also swooping in. India's largest company, Reliance, has purchased a large stake. China, Korea, and Britain are investing in gas drilling in the Marcellus shale.

As gas companies rush in to make deals with landowners for the right to drill, the money on the table - signing fees and royalties - is substantial, and hard to argue with in a recession. . . hundreds of thousands of dollars in some cases.

In Pennsylvania, 60 gas companies hold 4,504 permits to drill, almost half (1,915) granted

this year alone

What's driving the drilling rush here, and across the country, are advances in hydraulic fracturing, or "hydro-fracking," a process whereby millions of gallons of water, sand and chemicals are blasted deep underground - about 5,000 feet - forcing cracks in the shale and freeing natural gas for collection

It is at the surface where problems have been reported, like blowouts and spills into ground water

. And - as depicted in the HBO documentary "Gasland" - ignition at the kitchen sink

"Gasland": Is "Fracking" Polluting America?

At public meetings, environmental groups and pro-drilling landowners who receive royalties ("It's my house, it's my land, my property, I deserve to be able to frack if that's what I want to do," says one) have squared off over potential health risks and safety

"There's no such thing as zero-impact drilling," says John Hanger, head of Pennsylvania's Department of Environmental Protection. Since 2008 he's doubled the number of state regulators (100 to 205) and inspectors (21 to 45) to oversee the gas industry

Hanger told Keteyian that there is evidence of chemical contaminants in water. "Spills and surface leaks have, in fact, contaminated people's drinking water," he said

Yet nationwide the industry is not required to disclose what potentially toxic chemicals - like hydrochloric acid - are used in the drilling process

A provision of a law proposed by the Bush administration and passed by Congress in 2005 (dubbed by opponents the "Halliburton loophole") stripped the EPA of its ability to regulate "fracking" - leaving the job of regulatory enforcement in the hands of cash-strapped, undermanned state agencies

Since then, drilling companies have been allowed to put millions of gallons of unknown chemicals into the ground without reporting it, making it difficult to link pollution claims to drilling

What environmentalists fear most is widespread contamination to the watershed, on which millions of people depend

"I think the industry's way out of bounds for not disclosing the list of chemicals," Hanger said. "I think the industry is close to insane to allow that issue to become a source of suspicion "

Much like the quality of air and water now surrounding thousands of home sites like Stephanie Hallowich's.

Legislation is being proposed in the Senate, sponsored by Sen. Robert Casey, D-Pa., called the Fracturing Responsibility and Awareness of Chemicals (FRAC) Act

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A Dream Dashed by the Rush on Gas



The Hallowich family, Stephanie, Chris, and their children, Alie and Nate, on the land they say they hoped would be their "perfect ten acres." In the background is a gas tank, just a small part of the industry infrastructure that now surrounds them.

Photograph by Scott Goldsmith, National Geographic

Marianne Lavelle

National Geographic News

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SPECIAL REPORT: THE GREAT SHALE GAS RUSH

Exploring the promise and challenge of a new energy supply.

Chris and Stephanie Hallowich say they tried to choose carefully when they were seeking out their dream home in southwestern Pennsylvania. Thinking of their two young children, the high school history teacher and his wife, an accountant, rejected one property when they learned it had once been the site of a strip mine for coal. They settled instead on 10 acres of long-fallow farmland for \$20,000, and began to build.

The Hallowiches' yellow, two-story home in Mount Pleasant Township, about 30 miles southwest of Pittsburgh in Washington County, was completed in November 2007. Nestled on a wooded hill far from the main roadway, it has a swing set and a garden on rolling land where the children could run.

But even as they were building, the bucolic view was being replaced by an industrial panorama. Four natural gas wells, a gas processing plant, a compressor station, buried pipelines, a three-acre plastic-lined holding pond, and a gravel road with heavy truck traffic surround them. Instead of the sound of bird calls and the scent of new-mown grass, the Hallowiches listen to the wheeze of tractor-trailer brakes and breathe diesel fumes—and worse.

"It's ruined our lives. That's what it comes down to," says Chris. "It's ruined our plans that we had for the kids. It's ruined what we thought was our perfect ten acres."

Life in the Midst of a Boom

Thanks mainly to deals struck by the previous owner of their property—the extent of which they say they did not understand at the time of their purchase—the Hallowiches now live on a hillside hub of the Marcellus shale boom.

(See Photos: "A Changed Environment")

Even though they receive some recompense—a monthly royalty check of a few hundred dollars—they say it doesn't compensate for the money they've been spending to have fresh water delivered and stored at their home. They found pollutants in their well water, and although the extent and source are much in dispute, they refuse to drink, cook, or bathe with it. They say they fear that they and their children, now 6 and 9, face health risks from both polluted drinking water and air. And beyond that, they worry that the rural way of life here is being obliterated by an industry that, to them, seems to operate with little oversight or control.

It's hard to dispute that the Hallowich land sits on one of the most active plots in the 95,000-square-mile (246,000-square-kilometer) Marcellus shale, the rock formation extending from West Virginia to New York that the energy industry is tapping, with a combination of technological innovations, to produce huge quantities of natural gas. And it is true that the Hallowiches cope with noisy permanent installations like the compressor station and gas processing plant that have disrupted their lives. But gas producers say the site should be seen as an anomaly, not as a sign of what's to come.

Short-Term Disruptions?

“From a nuisance perspective, I will tell you they have a legitimate concern,” says Matt Pitzarella, spokesman for Range Resources, the company that drilled the well that produces gas beneath the Hallowich site. His gas company and others say the bulk of their operations—the well sites themselves—are short-term disruptions and that the land is restored, as the state of Pennsylvania requires, within nine months after drilling is complete.

The water impoundments serve many wells and can be around longer—the one behind the Hallowich house has been there since July 2007—but gas producers also say these man-made, plastic-lined lakes are temporary. The land will be restored when the water holding area is no longer needed. “It is an industrial process and we’re honest, open, and transparent about that,” says Pitzarella. In most cases, he says, “There are lights, some noises, some road dust, but within a year it’s all gone and everything is put back together.”

In particular, Range and other companies cite numerous steps they take, such as construction of steel and concrete well casings, to protect groundwater. Still, the Hallowich case is one of a number of bitterly contested water disputes that have erupted since the industry began to spread out across Pennsylvania, one of the few states without any private well regulation. There is no definitive proof where the pollution in the Hallowich well water came from.

A Question of Oversight

Oversight of these disputes, along with other regulation of the shale gas industry here, is the responsibility of the Pennsylvania Department of Environmental Protection (DEP), which has more than doubled its staff to handle the job. DEP has conducted more than 3,400 inspections of more than 1,400 well sites so far this year. It requires reams of paperwork for every drill, water site, and waste discharge, and it mandates site restoration and regrading of any hills that are flattened for well pads.

With more than 2,100 Marcellus wells drilled in Pennsylvania since 2007, DEP has found more than 500 violations of state environmental regulations and more than 1,000 administrative violations, such as failure to keep drilling logs on site. Although DEP does not have an exact figure for fines paid by the Marcellus industry, the agency says its operations were the target of the majority of \$1.8 million in oil and gas industry fines it has levied so far this year. DEP also temporarily curtailed operations of two of the nearly 70 natural gas companies working in the Marcellus. Even industry supporters, who cheer the arrival of a cleaner fuel source to replace coal and oil, say there have been too many accidents and too much mistrust sown by industry secrecy and resistance to further oversight.

“This gas industry has a great product, but how they drill it and how they produce it is going to go a long way to deciding whether the American people embrace it or actually reject it,” says Pennsylvania DEP Secretary John Hanger, the state’s chief industry regulator.

Safe Process, but Risky Execution?

Both Hanger's office and the gas industry maintain that if the process is done properly, there is no threat to drinking water when chemically treated water and sand are blasted underground to fracture shale to produce gas.

(Related: "Forcing Gas Out of Rock With Water")

The hydraulic fracturing (fracking) fluid, about 4 million gallons (15 million liters) per well, is released into the shale layer at a depth of 4,000 to 8,500 feet (1,220 to 2,590 meters). (Related interactive: "Breaking Fuel From the Rock") That means that there is about a mile or more of rock between the shale and underground water sources used for drinking water. About 1 million Pennsylvania households, nearly 20 percent of residences in the state, draw their water from private wells that are relatively shallow. Wells in the western half of the state, for instance, would likely be drilled to depths of less than 150 feet (46 meters), according to the Pennsylvania Geological Survey.

The potential for contamination of drinking water aquifers is a major concern in the Keystone State, which has more people served by well water than any state but Michigan, according to a 2009 analysis year prepared for the state legislature. The chief bulwark against water pollution is a separating wall—a casing made of tons of steel and cement—built in each gas well not only to protect the environment, but also to ensure the valuable gas doesn't escape.

Hanger says there hasn't been a single confirmed case of frack fluid migrating from the shale layer deep underground to the shallow drinking water supplies in Pennsylvania. However, about 20 to 50 percent of the drilling liquid flows back to the surface, most of it right after the well is completed. And that's when proven trouble can occur.

"It's Not Water of Any Kind"

This "produced water," which includes the frack chemicals, is a super-salty brine, prone to bacterial growth, and potentially contaminated with heavy metals. "It smells like turpentine," says Conrad Dan Volz, director of the Center for Healthy Environments and Communities at the University of Pittsburgh's Graduate School of Public Health, who has been researching the environmental impact. "It's not water of any kind."

State regulations say the frack fluid has to be collected and disposed of as an industrial waste, or it can be treated and reused to drill more wells, a practice pioneered in Pennsylvania within the past year.

(Related: "Forcing Gas Out of Rock With Water") Hanger says the water reuse is in no small measure a result of the DEP's tough stance on wastewater handling.

But in at least 130 cases documented since 2008 by the DEP, drilling wastewater has spilled into creeks and tributaries due to holding pond overflows, pump failures, and other errors. There have been at least two small fish kills. One occurred in October 2009, soon after Range started its program to reuse frack fluid. About 10,500 gallons (40,000 liters/250 barrels) leaked from a broken pipeline joint and killed about 170 creek chubs, blacknose dace, and other small fish, along with some salamanders and frogs in Brush

Run, 30 miles southwest of Pittsburgh. Range says the fish killed collectively weighed about a pound. The company suspects vandalism, because bolts had been removed from the pipe connection. But no perpetrators have been tracked down, and the company was fined \$140,000 for polluting a high-quality waterway. (Range since has switched to using unbolted high-density polyethylene pipeline to transfer its drilling fluid, Pitzarella says)

In another case, involving East Resources* in north-central Pennsylvania, the state quarantined cattle exposed to wastewater that leaked from a containment pond and killed grass over 1,200 square feet on a farm. State agriculture officials said they acted to prevent contaminated beef from entering the food chain, since the water contained the heavy metal strontium, a substance especially toxic to children and one that lingers long in an animal's system

In a case that echoed the BP oil spill, although the results certainly weren't as severe, an EOG Resources well blew out on June 3, with natural gas and frack fluid spewing for 16 hours from the gas well on hunting club land inside the Moshannon State Forest in central Pennsylvania (Related "Parks, Forests Eyed for the Fuel Beneath") There should have been at least two pressure barriers or blowout preventers in the underground piping to prevent contaminated fluid from flowing to the surface, but only one barrier was in place, and it was damaged, the DEP's investigation showed. EOG was hit with the harshest punishment to date by Pennsylvania's shale regulators—a fine of \$353,000 and temporary suspension from drilling

The Dimock Case

But perhaps the most notorious Pennsylvania contamination case was in the northeastern part of the state, in rural Dimock Township, where natural gas was found in early 2009 to have contaminated the drinking water wells of 14 homes. Investigators were able to do a kind of "fingerprinting" to determine the source, and concluded the gas did not come from the Marcellus shale. But the state DEP contends that faulty well casing set into the ground by Cabot Oil & Gas as it drilled into the deep Marcellus allowed gas to migrate from more shallow geological formations into the groundwater. Dimock's woes were recounted in the award-winning documentary film *Gasland*, forever linking the image of flammable drinking water to the Marcellus shale (even though the man who memorably set fire to his tap water in the film was in Colorado)

Now the dispute in Dimock has escalated, with the state DEP announcing in September that it would seek to recover from Cabot the \$118 million cost of building a line to hook the affected homes to a public water system, bypassing the natural gas pollution in their aquifer. Cabot, which originally signed consent orders with the state DEP agreeing to plug three of its wells, to pay at least \$240,000 in fines and to provide water treatment systems for the affected homes, began to publicly and aggressively fight the state. Cabot contends that the natural gas was naturally occurring in the area's water, and on a "Clearing the Air" web site the company has posted affidavits of four longtime residents saying the area's water was always known to be flammable.

The truth of the Dimock situation appears destined to be hashed out in the court system; in addition to

the state DEP's legal action, Cabot documents also say there is a pending suit by residents

But the issue of faulty well construction is a concern for the regulators that goes beyond Dimock. In addition to the Cabot case, the DEP has cited companies nearly 50 times since 2008 for faulty well casing that posed a risk to groundwater. And in September, the DEP requested that one of the largest gas producers, Chesapeake Energy, inspect 171 well casings in northeastern Pennsylvania because natural gas had been found in six private water wells. Also, the state is in the final stages of approving more stringent well cementing and casing requirements for all drillers that Hanger says will be "as strong as any in the country."

"They Need to See Every Spill . . . as Unacceptable"

To oversee the oil and gas industry, the Pennsylvania DEP has enlarged its staff from 88 people to nearly 200, paid for by a significant hike in the cost of drilling permits that increased fee revenue from \$700,000 per year to more than \$10 million. But Hanger says that the gas industry has to do its part. "What we've been absolutely focused on is trying to build a culture of safety, by enforcing real rules," he says. "Because at the end of the day, these companies are the only folks who are there pretty much all the time. We will never have an inspector at every well site every minute of every day.

"So these companies are creating what I describe as the bed in which they will lie with the public," Hanger says. "They need to see every spill and every leak as unacceptable. They need to see every blowout as unacceptable, every gas migration case as completely unacceptable."

Public and Private Battles

Although the industry maintains that the majority of wells have been drilled safely, and that companies have paid for the damage they've done in isolated cases, the industry is clearly on the defensive. No drilling is currently permitted in Pennsylvania's easternmost counties. That's by decision of the Delaware River Basin Commission (DRBC), a federal-multistate compact agency that governs water use in the environmentally sensitive watershed on Pennsylvania's border with New Jersey and New York, which provides water to 17 million people. The DRBC decided on June 14 to halt all natural gas drilling in its region while it writes new environmental rules. In New York, where the Marcellus underlies the Catskill Mountains region that provides New York City with its drinking water—in one of the largest unfiltered water systems in the world—gas drilling has been on hold, in effect, since 2008.

On September 9, the U.S. Environmental Protection Agency asked nine natural gas service companies to submit information on the chemicals they use in hydraulic fracturing—indicating the agency will use its legal authority to compel disclosure of the information if the companies do not comply. EPA is in the midst of a study of the safety of fracking, for which it held packed meetings in Pennsylvania and New York. Leading energy industry analysts believe that in whatever energy bill Congress passes next, there will be both a new federal requirement on frack chemical disclosure and an amendment to assure that fracking is regulated by the federal Safe Drinking Water Act (SDWA). (In its 2005 energy bill, Congress included an exemption from SDWA oversight for the water put into the ground for hydraulic

fracturing—a provision that has come to be known as the “Halliburton loophole” after the oil and gas industry service company that is active in the shale industry.)

In addition to increasing official scrutiny, the Marcellus gas industry is embroiled in private battles like the one with the Hallowich family. Ironically, because of a lease signed by the previous owner of their property before they purchased it, the Hallowiches get a royalty check from Range Resources every month, typically between \$300 and \$400, for natural gas produced from under their land. That previous owner would have been due those royalties, and actually tried to back out of the sales agreement with the Hallowiches before closing in 2006. But they took her to court and forced the sale. The Hallowiches said they did not understand the lease was for gas drilling; they say they were told at closing that the lease was for work on a pipeline at the other end of the farm.

Tracking the Source of the Pollution

Now, the Hallowiches are suing Range and others, they say all the royalty money they earn goes to fighting pollution woes. But how much pollution they face, and where it comes from, are subjects steeped in acrimony; successive rounds of water testing by different parties have only made the matter murkier.

Since June 2009, the Hallowiches say, they have spent more than \$5,000 to have water for drinking, cooking, and bathing delivered and stored in a 1,500-gallon (5,700-liter) rented tank in their garage, filled every three weeks, and pumped through the house. State DEP testing conducted in May 2009 showed that their well water had levels of the mineral manganese, a potential neurotoxin, more than three times higher than the state water quality standard. The state DEP said in an August 2009 letter to the Hallowiches that the manganese was a common problem in southwestern Pennsylvania, and could be naturally occurring.

But the Hallowiches had follow-up tests done by two private labs. One of these detected acrylonitrile, a chemical used to make a wide variety of plastics; it can affect the central nervous system, according to the U.S. Agency for Toxic Substances and Disease Registry. The same lab's testing showed trace levels of other toxic chemicals.

The state DEP said in its August 2009 letter to the Hallowiches that the only contaminant in the water that consistently exceeded state standards for drinking water was manganese. The DEP noted that the testing by the other private lab hired by the Hallowiches did not detect any acrylonitrile, and the DEP suggested that the compound could have come from the plastic decorative rock the Hallowiches used over their well.

The Hallowiches, who obtained a letter from the decorative rock company and material data safety sheets stating there was no acrylonitrile in the plastic fixture, are convinced that the chemicals migrated from the natural gas drilling operations. Because acrylonitrile is in so many plastics, they maintain that a probable source is one of the plastic liners—either in the fresh water impoundment or in one of the drilling waste pits buried on site. But Range, which has publicly disclosed its fracking chemicals since this summer, says acrylonitrile is not used in its processes or in its plastic liners.

As in Dimock Township, it appears it will be up to the courts to decide the truth. Complicating matters is the fact that the Hallowiches have no definitive proof on any of the pollution issues. Because they did not test their water for chemicals before drilling began, they have no baseline against which to compare any current readings. In fact, the Hallowiches did not test their water, except for the bacteria, until a year and a half after gas drilling ended. That omission is important, because by Pennsylvania law, an oil or gas company is presumed to be responsible for pollution if a well is drilled within 1,000 feet of a water supply (as is the Range Resources well next door to the Hallowiches) but only if it can be shown that the pollution occurred within six months of drilling.

Because of the liability potential, Range and most other companies routinely do a pre-drilling analysis of water wells within 1,000 feet of a planned oil or gas well. But the Hallowich site fell between the cracks in the law. The family didn't tap their underground water until three months after gas drilling began in July 2007. The Hallowiches said they were never notified or warned to have their water tested, as they believe they should have been. And Stephanie says she was not originally worried about the gas operations. "Just water and sand," she says, is all she understood to be used in the shale gas process.

But as the gas operations encroached, Stephanie contacted groups opposed to natural gas drilling elsewhere in the state, including activists who organized not far from trouble-ridden Dimock. They are the ones, Stephanie says, who urged that the couple do their own water testing for a range of chemicals they say they never would have considered if they had collected a sample before the gas drilling began. After all that she has since learned, from the activists and her own exhaustive research, Stephanie is convinced that drilling is rife with hazards. "It's just like a big chemistry experiment in the ground," she says.

Worries, Too, About the Air

The Hallowiches also have fears about the air, after suffering burning eyes, sore throats and other symptoms when gas was released several times during apparent equipment malfunctions. A windsock now tells the Hallowiches when air is blowing from the direction of the gas facilities, so they can keep the children indoors.

University of Pittsburgh environmental researcher Conrad Dan Volz, whose center, along with the University of Washington, Seattle, is researching the Hallowiches' case as part of a larger study on the industry impact, believes the Marcellus air pollution risk is largely being overlooked. Air pollution is one of Volz's areas of focus in a \$1.8 million, three-year project funded by the Heinz Endowments, which includes the launch of a web site called FracTracker, to be used by citizens, community groups, government agencies, and public health officials. Information, he says, has been as dispersed as the industry. "If any new industry moved into an area and essentially wanted to build a factory, they would have to submit all these environmental plans," he says. "This industry, because it's more diffuse over such a large geographic area, has avoided getting that kind of scrutiny. The [federal] Clean Air Act is very much devised to regulate the largest industrial processors, not necessarily an industrial process spread through an entire region."

Although the individual gas plants do have to obtain Clean Air Act permits, and their emissions are regulated, it is the cumulative impact of numerous facilities that has caused a problem for the Hallowiches

The Dispute Goes to Court

Pitzarella says that Range has offered to buy the Hallowich property, while leaving them the mineral rights, for around \$200,000. Pitzarella says the offer—which was made verbally, not in writing—was based on a real estate agent's assessment of the fair market value of the property. But the Hallowiches, who have put their house on the market for close to \$500,000, say they never received either a verbal or written offer from Range, although the company invited them to talk. They say that Range asked what they wanted; they replied that they wanted the company to buy their house, reimburse them for water, pay their legal fees, and create an escrow account for medical monitoring for the family

The two sides disagree on exactly when negotiations broke down, but the Hallowiches say they did not want to sign away their right to sue because their problems, they say, are bigger than polluted well water and go beyond their issues with Range. Stephanie Hallowich points out that their lives also have been disrupted by two big facilities built by other companies the year after they moved into their home. a gas compressor station 580 yards (530 meters) away, operated by MarkWest Energy Partners of Denver and a gas conditioning facility 340 yards (310 meters) away operated by a subsidiary of Tulsa, Oklahoma's Williams Company. "Would you want to buy my house?" asks Stephanie. "Our house and property are worth nothing. Even if we found somebody who'd be willing to buy it, there's probably not a bank that would finance it."

So the Hallowiches have filed a notice of intent to sue Range, MarkWest, and Williams Company, as well as the Pennsylvania DEP, which they blame for failing to enforce the law. DEP spokesman John Repetz says that the agency's investigation into the Hallowich situation is continuing. But he said the agency could say little more about the case while it was in litigation. MarkWest and Williams also said they did not comment on matters in litigation.

Range's Pitzarella says that because Pennsylvania never has required homeowners to test their private drinking water wells, the potential is great for clashes between residents and the new gas industry. In regions where chemicals and minerals entered aquifers long ago from both farming and coal mining, Pitzarella says, the gas industry is being blamed unfairly for pollutants that were in the groundwater long before its arrival.

"Oftentimes, when we do our pre-drilling analysis, we'll find there are people that have bacteria, agricultural runoff, and sediment in their water supplies," he says. "We've had some landowners that have water wells drilled into old mine pools that they've been drinking out of for years. It's a problem in Pennsylvania."

'An Absolutely Unique Situation'

As for the Hallowich property, Pitzarella says, the conflict escalated because it involved one of the first sites ever drilled in the Marcellus shale—three of the wells there were experimental. He says in both the siting of facilities and communication with residents, his company has worked harder since then to be a good neighbor.

"They are in an absolutely unique situation," he says. "Not only will you not see it in the future, you won't see it now, and you won't see it since then." He points to the more than 2,100 Marcellus wells drilled in Pennsylvania so far and the thousands of landowners across the state who have signed leases allowing gas companies to produce on or under their properties. "If this were the norm, there would be tens of thousands of people saying, 'It's happening everywhere. I can't get away from it.'"

Pitzarella says he can show many Range sites in southwestern Pennsylvania where there is little remaining sign of any drilling operation—just a low, green pipe and valve structure, commonly called a "Christmas tree," fenced off from surrounding land. There also are numerous happy landowners among the hundreds of Range leaseholders in Washington County.

Some Embrace the Industry

Typical is Beverly Romanetti, whose family lives just over a mile from the Hallowich place. "We have not had a problem at all," she says about the gas well, which takes up three to five acres of their approximately 150-acre cattle farm. "They are very polite, and try to please," she says of the gas company.

"It definitely has changed our way of living in this county," Romanetti concedes. "We're used to no traffic, and now you have the big trucks." But, she says, "what they have given back to every inch of this county is amazing." Romanetti mentions the lease money that has allowed farmers to stay on their land and not sell or subdivide, the donations that the companies have made to local charities and the student agricultural group, 4-H, and the road repairs that Range has made to make up for the damage done by its trucks. "People should embrace them," she says.

(Related: "A Drive for Jobs Through Energy")

In July, Range, which was the first company to drill in the Marcellus, also became the first shale company to voluntarily disclose the chemicals it uses at each frack site, and as of late last year it has aimed to reuse 100 percent of its drilling wastewater. "This is far too important and too great of an opportunity to not get it right," Pitzarella says. "I'll be the first to tell you that we're not perfect and we may make some mistakes—poor communication with a landowner, choosing a bad location for an access road, things like that. But if we make a mistake we own up to it and make it right."

Evidence on the dispute with the Hallowiches is now being gathered in Washington County court. The Hallowiches are giving up their dream of ten acres and a home in the country for now. They are planning to rent a place in the Pittsburgh suburbs.

** Most of East Resources assets have since been acquired by Royal Dutch Shell, which is sponsor of the*

National Geographic initiative The Great Energy Challenge. This report is produced as a part of that initiative, in which National Geographic maintains autonomy over content

*Read the entire special report, with photos, interactive map and illustration of the process, at **THE GREAT SHALE GAS RUSH.***

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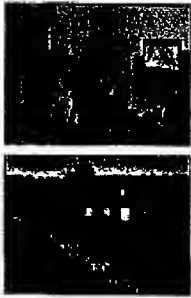
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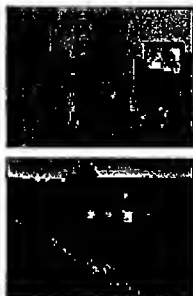


Photograph by Scott Goldsmith, National Geographic

Chris and Stephanie Hallowich bought ten acres of long-fallow farmland in southwestern Pennsylvania for \$20,000, and began to build what they thought would be their dream home

The yellow, two-story home in Mount Pleasant Township was completed in November 2007—and soon surrounded by four natural gas wells, a gas processing plant, a compressor station, pipelines, a three-acre water impoundment, and a gravel access road with heavy truck traffic. Now they fear that their well water is contaminated and their children are breathing pollutants, all stemming from the industry's operations. Over the past year, they estimate they have had to pay \$5,000 to have water delivered and stored in a tank and pumped throughout the house for cooking, bathing, and drinking "It's ruined our lives. That's what it comes down to," says Chris "It's ruined our plans that we had for the kids. It's ruined what we thought was our perfect ten acres."






Photograph by Scott Goldsmith, National Geographic

Nestled on a wooded hill far from the main road, the Hallowich home has a swing set and a garden on rolling land where they thought their children would be able to run.

But even as they were building, their bucolic view was being replaced by an industrial panorama. Instead of the sound of bird calls and the scent of new-mown grass, the Hallowiches listen to the wheeze of tractor-trailer brakes and breathe diesel fumes and worse.

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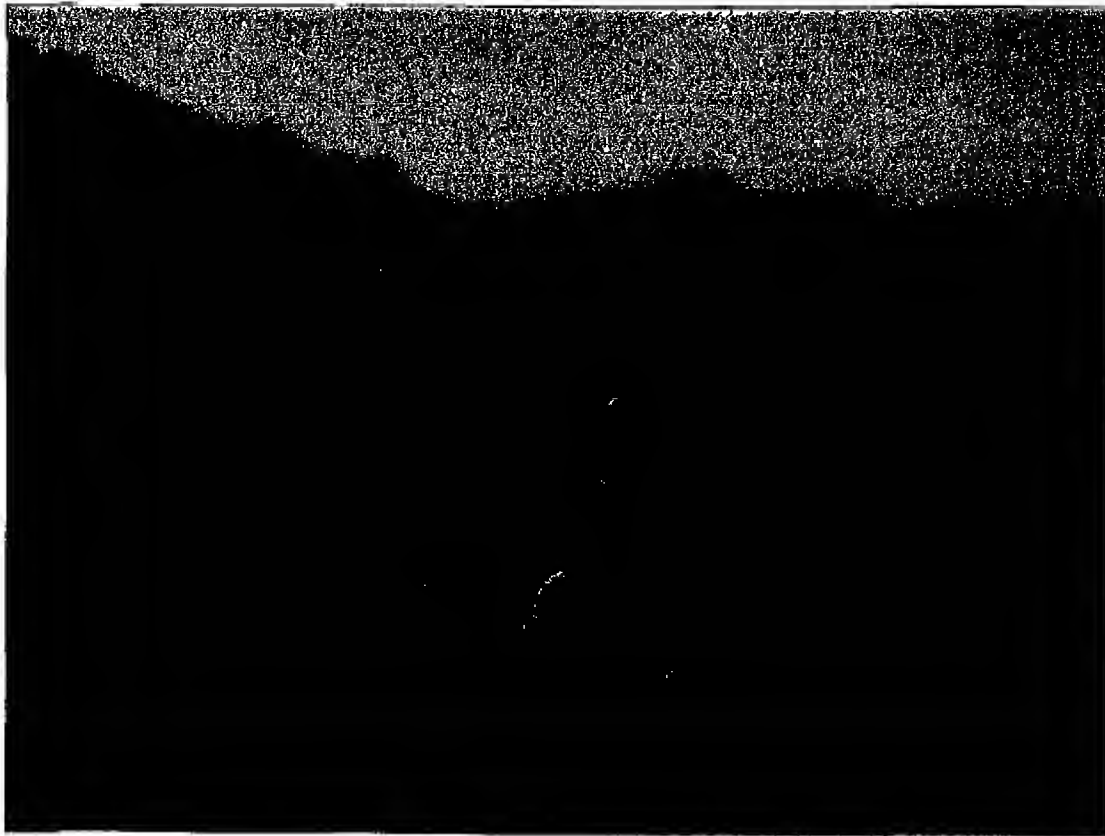
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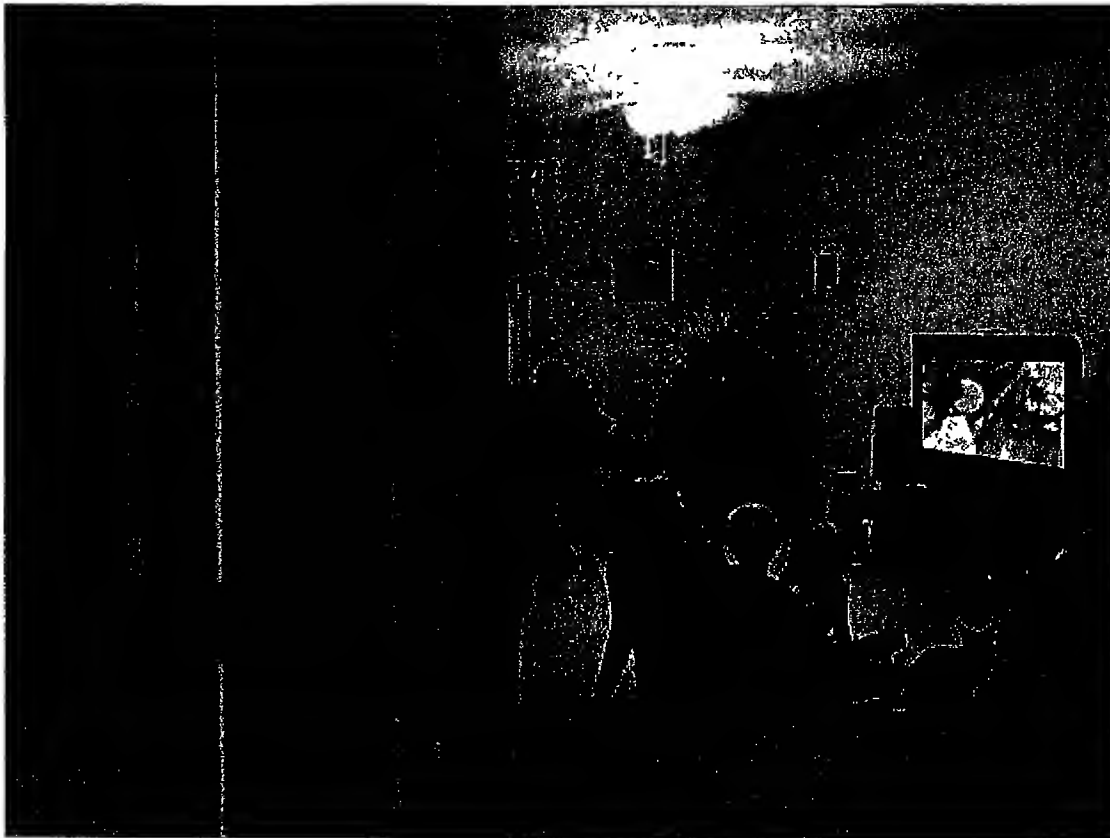


Photograph by Scott Goldsmith, National Geographic

Ali Hallowich stretches her arms out to catch a lightning bug on land near her home in Mount Pleasant Township, Pennsylvania, which is located alongside gas drilling and processing operations in the Marcellus shale

The Hallowich family once considered the bucolic area a perfect site for their dream home, but now they are so worried about polluted water and air that they simply want to sell their house and move. Both the state's chief industry regulator and the gas industry maintain that if it's done properly, there's no threat to drinking water when chemically treated water and sand are blasted underground to fracture shale to produce gas. But accidents and industry resistance to oversight continue to raise concerns.

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Photograph by Scott Goldsmith, National Geographic

The Hallowiches gather in front of the television after dinner

The family sees little resolution of its troubles, except through the legal system. Range Resources says it made a verbal offer to buy the Hallowich property, while leaving them the mineral rights, for about \$200,000. But the Hallowiches, who have put their house on the market for close to \$500,000, say they never received a verbal or written offer from Range. They say that although the company invited them to talk, those negotiations broke down. They wanted not only reimbursement for their home, water and legal fees, but also an escrow account for medical monitoring for the family. The couple say they did not want to sign away their right to sue, since their problems are bigger than polluted well water. "Do you want to buy my house?" asks Stephanie. "Our house and property are worth nothing. Even if we found somebody who'd be willing to buy it, there's probably not a bank that would finance it."

WTAE.com

Explosion Reports Send Crews To Washington Co. Gas Well Site

Range Resources Says Smoke Spotted At Compressor Station

POSTED 7 04 am EST March 1, 2011
UPDATED 6 32 pm EST March 1 2011

MOUNT PLEASANT TOWNSHIP, Pa. -- A heater malfunction may have sparked a fire Tuesday inside a tank at a Marcellus Shale gas compressor station in Hickory, Washington County.

Channel 4 Action News' Janelle Hall reported that crews were called to a site in Mount Pleasant Township off Caldwell Road after 911 dispatchers started getting calls about an explosion on Tuesday morning.

"We heard a big 'Boom!' It shook our house," Rebecca Skirpan told Hall

State environmental officials said flames blew the hatch off a second tank, which may have been the noise heard by several people living in the area. No one was hurt, but the incident is still under investigation.

Range Resources denied that there was any sort of explosion. Spokesman Matt Pitzarella said that one of the company's employees was inspecting wells in the area when he saw smoke coming from a compressor station and called 911.

Hall reported that Range Resources said that an inspector spotted a small fire and put it out with a handheld fire extinguisher.

Pitzarella said that as part of the company's emergency preparedness plan crews are required to call 911 if they see anything unusual.

People who live in the area told Hall they're concerned about safety. The site sits just six miles away from another Marcellus Shale site in Avella where three workers were injured during an explosion last week.

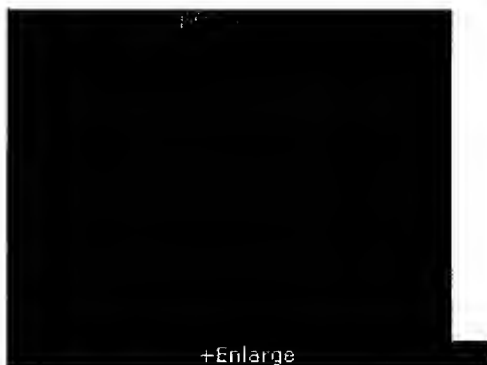
Stephanie Hallowich lives 600 yards away from the facility involved in Tuesday's incident

"There's not only the compressor stations, but another company has a gas plant and a third company has four different gas well pads. There's also a national fuel line, so the potential for something catastrophic is definitely there," Hallowich said

Hallowich said her family wants to move and, out of frustration at what they perceive as the health risk from drilling operations, carved the words "Gas Land" into their yard

Related To Story





"We had actually been away the last couple of days because the children have been having some health issues, which we believe is from some of the emissions coming out of these two places, with some pretty serious nose bleeds and headaches," Hallowich said.

Drilling sites like these provide profit for landowners who lease the land

"If they do it safely, then I'm all for it." Martin O'Lear told Hall. "But when you see stuff like this....." O'Lear trailed off.

"This may be one small area in my backyard. But there's going to be others in other people's backyards with the volume of wells they plan on drilling in the state. So more people are going to be impacted," Hallowich said.

Previous Stories:

- February 24, 2011: [Explosion, Fire At Marcellus Shale Gas Well Site Under Investigation](#)
- February 16, 2011: [Team 4: Cumulative Effects Of Marcellus Shale Wells](#)
- February 10, 2011: [Team 4 Investigates: What's Spewing Into The Air We Breathe?](#)

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Peter M. Villari, Esq.
Email pvillari@villarilaw.com

Hon. Paul Pozonsky
Washington County Court of Common Pleas
1 South Main Street, Suite 1004
Washington, PA 15301

August 31, 2011

**RE: Hollowich v. Williams Gas/Laurel Mountain, et. al.,
Docket No. 2010-3954**

Dear Judge Pozonsky,

Plaintiffs' counsel is in receipt of PG Publishing Company's Petition to Intervene and Motion to Unseal Record in the above captioned matter, filed on August 31, 2011, including notice of hearing before your Honor on September 6, 2011 at 9.15 a.m. Please be advised that Plaintiffs are taking no position and will therefore defer to the Court's discretion regarding said Petition and Motion

Very truly yours,



Peter M. Villari, Esq

cc: Frederick N. Frank, Esq.
Gail A. Meyers, Esq.
Erin Windell McDowell, Esq.
Kathy K. Condo, Esq.
James C. Swetz, Esq.





GOVERNOR'S OFFICE OF GENERAL COUNSEL

September 2, 2011

Southwest Regional Counsel

412-442-4262
Fax: 412-442-4267

Via Facsimile and First Class Mail

The Honorable Paul Pozonsky
Washington County Court of Common Pleas
1 South Main Street, Suite 1004
Washington, PA 15301

Re: *Stephanie Hallowich and Chris Hallowich v Range Resources Corporation, et al.*
Docket No 10-3954

Dear Judge Pozonsky:

I am writing to advise you that the Department has been notified that on Tuesday, September 6, 2011, P.G. Publishing Company intends to present a Petition to Intervene and Motion to Unseal Record in the above referenced matter. The Department neither opposes nor supports P G Publishing Company's Petition to Intervene and Motion to Unseal Record. Therefore, the Department does not intend to attend the presentation of the Motion before Motions Court on September 6, 2011

Sincerely,

Gail A. Myers
Assistant Counsel

cc. Frederick N. Frank, Esquire (via facsimile)
Kathy K. Condo, Esquire (via facsimile)
Erin W McDowell, Esquire (via facsimile)
Peter Villari, Esquire (via facsimile)
Richard Hosking, Esquire (via facsimile)
Alan J. Eichler, OGM Pittsburgh
Jack Crook, OGM Pittsburgh



CERTIFICATE OF SERVICE

I, Frederick N Frank, Esquire, hereby certify that a true and correct copy of the foregoing INTERVENORS' JOINT BRIEF IN SUPPORT OF PG PUBLISHING COMPANY'S AND OBSERVER PUBLISHING COMPANY'S PETITION TO INTERVENE AND MOTION TO UNSEAL RECORD was served upon the following, this 3rd day of October, 2011, via the manner indicated below.

The Honorable Paul Pozonsky, Judge
Washington County Court of Common Pleas, Civil Division
Washington County Courthouse 1 South Main Street
Suite 1004
Washington, PA 15301
(via hand delivery)


Gail A. Myers, Esquire
400 Waterfront Dr
Pittsburgh, PA 15222
(Counsel for Pennsylvania Department of
Environmental Protection)
(via facsimile)

Kathy K Condo-Caritis, Esquire
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222
(Counsel for Williams Gas/Laurel Mountain
Midstream)
(via hand delivery)

Erin Windle McDowell, Esquire
44th Floor, 600 Grant Street
Pittsburgh, PA 15219
(Counsel for MarkWest Energy Partners
LP & MarkWest Energy Group, L L C)
(via hand delivery)

James C Swetz, Esquire
K & L Gates, L L P
K & L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222
(Counsel for Range Resources Corporation)
(via hand delivery)

Peter Villari, Esquire
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428
(Counsel for Plaintiffs)
(via facsimile)


Frederick N Frank, Esquire
Attorneys for PG Publishing Company,
d/b/a The Pittsburgh Post-Gazette

Cary Jones

From: Cary Jones
Sent: Monday, October 03, 2011 9:08 AM
To: 'Sarah Tumulty'
Subject: RE: PREHUD FOR FIRST U P CHURCH
Sarah,

For right now, would you add these expenses on the Seller's side

- 1 Marriner, Jones & Fitch - reimbursement for dye test \$140.00
- 2 Marriner, Jones & Fitch - reimbursement for municipal lien letter \$50.00
- 3 Marriner, Jones & Fitch - notary fee \$2.00

Once the situation is under control and my fee is finally determined, I'll get that figure to you

Thanks!

Cary

From: Sarah Tumulty [mailto:os3stumulty@TitleWorkPlace.biz]
Sent: Friday, September 30, 2011 5:42 PM
To: Cary Jones, rkarp@comcast.net
Cc: acaruso@oxfordss.com
Subject: PREHUD FOR FIRST U P. CHURCH

Gentlemen,

This is a preliminary HUD for review and discussion. I will add Cary's fees on Monday. Please review transfer tax distribution. Not sure if the buyer is responsible for all of the tax.

Please let me know if we need to make any changes or other additions. We do not have the final water bill or lien letters. We will need those to insure property.

PLEASE USE THE TAB AT THE BOTTOM OF PAGE ONE TO TURN TO PAGE TWO

Thanks,

Sarah

10/3/2011

21

) Docket No. 2010-3954

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FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, DC PA-
2

Plaintiffs, Stephanie and Chris Hallowich, and Defendants Range Resources-Appalachia, LLC, Williams Field Services Company, LLC, Laurel Mountain Midstream, LLC, MarkWest Energy Partners, LP and MarkWest Energy Group, LLC, by their undersigned counsel, respectfully move this Court for an order permitting the parties to file under seal a Petition for Approval of Settlement of Minors' Actions Pursuant to Pa. R.C.P. 2039 and Local Rule 2039 1, based upon the following.

1 On May 27, 2010, the Plaintiffs, Stephanie and Chris Hallowich, filed a Praecipe to Issue Writ of Summons in the Court of Common Pleas of Washington County, Pennsylvania captioned "Stephanie Hallowich and Chris Hallowich, H/W v. Range Resources Corporation, Williams Gas/Laurel Mountain Mid-Stream, MarkWest Energy Partners, L.P., MarkWest Energy Group, L.L.C., and Pennsylvania Department of Environmental Protection", Docket No. 2010-3954

2. Thereafter, on June 24, 2011, all Parties, excluding the Pennsylvania Department of Environmental Protection, entered into the Settlement Agreement and Release ("Confidential Agreement") to resolve the above-captioned matter.

3 The Confidential Agreement also resolves certain alleged claims of Plaintiffs' minor children.

4. The Confidential Agreement is subject to specific confidentiality provisions agreed to by the Parties.

5. Because the Confidential Agreement must be presented as part of a Petition to the Court for approval of the settlement of the minors' claims, pursuant to Pa R C P 2039 and Local Rule 2039.1, the Parties respectfully request permission to file the Petition for Approval of Settlement of Minors' Actions, and the Confidential Agreement attached thereto, under seal

WHEREFORE, the Parties respectfully request the Court permit the filing of the Petition for Approval of Settlement of Minors' Actions, and the Confidential Agreement attached thereto, under seal

Respectfully submitted,

VILLARI, BRANDES & KLINE, P.C.

BY: 

Peter M. Villari, Esquire
Attorney I.D. #26875
161 Washington Street,
8 Tower Bridge, Suite 400
Conshohocken, PA 19428
Tel: (610) 729-2900
*Attorneys for Plaintiffs STEPHANIE HALLOWICH
AND CHRIS HALLOWICH*

K&L GATES

BY: 

for Richard Hosking, Esq.
Attorney I.D. #32982
James C. Swetz, Esq.
Attorney I.D. #208717
K&L Gates Center
210 Sixth Avenue
Pittsburgh, Pennsylvania 15222
Tel: (412) 355-6500
*Attorneys for Defendant Range Resources-
Appalachia, LLC*

ECKERT SEAMANS CHERIN & MELLOTT, LLC

BY:  (w/permission)

Erin W. McDowell
Attorney I.D. # 93684
600 Grant Street, 44th Floor
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Tel. (412) 566-6000
*Attorneys for Defendants MarkWest Energy
Partners, LP and MarkWest Energy Group, LLC*

BABST CALLAND CLEMENTS & ZOMINIR, PC

BY Kathy Condo (w/permission)
Kathy Condo

Attorney ID #34910

Two Gateway Center, 8th Floor

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Tel: (412) 394-5400

*Attorneys for Defendants Williams Field Services
Company, LLC and Laurel Mountain Midstream,
LLC*

VILLARI, BRANDES & KLINE, P.C.

BY: Peter M Villari, Esquire
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8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428
(610) 729-2900 Ph

Attorneys for Plaintiffs

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PA
PREMISES LIABILITY ACTION - CIVIL CASE

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W
179 Avella Road
Hickory, PA 15340

Plaintiffs

DOCKET NO 2010-3954

MAY TERM, 2010

JURY TRIAL DEMANDED

v.

RANGE RESOURCES CORPORATION, et al
380 Southpointe Boulevard
Canonsburg, PA 15317

CERTIFICATE OF SERVICE

Peter M Villari, Esquire, hereby certifies that a copy of Plaintiffs' Petition for
Approval of Settlement of Minors' Actions, was served upon the following this 27th day
of July 2011, via first class mail

Gail A. Myers, Esquire
Office of Chief Counsel
400 Waterfront Drive
Pittsburgh, PA 15222-4745

Kathy K Condo, Esquire
Babst, Calland, Clements & Zomnir, P C
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222

FILED
11 JUL 28 AM 10:13
CLERK OF COURT
WASHINGTON CO. PA.

Erin Windle McDowell, Esquire
Eckert SeamansChern & Mellott LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219

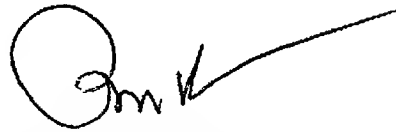
Richard Hosking, Esquire
James C Swetz, Esquire
K&L Gates
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222-2613

Respectfully submitted,

Date

7/27/11

By

A handwritten signature in black ink, appearing to read "P. Villari", written over a horizontal line.

Peter M Villari, Esquire
Attorney for Plaintiffs

71

VILLARI, BRANDES & KLINE, P.C.

BY Peter M Villari, Esquire
Attorney I D #26875
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428
(610) 729-2900 Ph

Attorneys for Plaintiffs

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PA
PREMISES LIABILITY ACTION - CIVIL CASE

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W
179 Avella Road
Hickory, PA 15340

Plaintiffs

DOCKET NO 2010-3954

MAY TERM, 2010

JURY TRIAL DEMANDED

v

RANGE RESOURCES CORPORATION, et al
380 Southpointe Boulevard
Canonsburg, PA 15317

CERTIFICATE OF SERVICE

Peter M Villari, Esquire, hereby certifies that a copy of the Joint Motion to File
Petition for Approval of Settlement of Minors' Actions Under Seal, was served upon the
following this 27th day of July 2011, via first class mail.

Gail A Myers, Esquire
Office of Chief Counsel
400 Waterfront Drive
Pittsburgh, PA 15222-4745

Kathy K Condo, Esquire
Babst, Calland, Clements & Zomnir, P C
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222

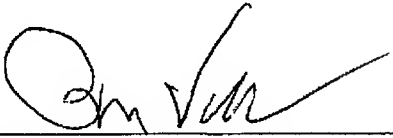
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WASHINGTON CO PA

Erin Windle McDowell, Esquire
Eckert SeamansCherin & Mellott LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219

Richard Hosking, Esquire
James C Swetz, Esquire
K&L Gates
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222-2613

Respectfully submitted,

Date 7/27/11

By 
Peter M Villari, Esquire
Attorney for Plaintiffs

1 On July 28, 2011, Plaintiffs filed the Petition and requested that the Court approve the settlement and release of Plaintiffs' minor children's claims. *See* Petition (Ex A) The parties conferred and consented to this Petition

2. On the same date, the parties filed the Joint Motion, requesting that the Court file the Petition and Exhibits A and B attached thereto under seal, in accordance with the confidentiality provisions of the parties' Confidential Settlement Agreement *See* Joint Motion (Ex B) The parties conferred and consented to this Joint Motion

3. The Court has not yet granted the Joint Motion Accordingly, Plaintiffs have not yet submitted the Confidential Settlement Agreement, which is to be appended as Exhibit B to the Petition and filed under seal.

4 The parties have now conferred and hereby jointly request that the Court hear the Petition and Joint Motion in closed court or in chambers on Wednesday, August 24, 2011, or as soon thereafter as suits the convenience of the Court.

5 Unless otherwise instructed by the Court, during the requested hearing, Plaintiffs will present the Petition, Joint Motion, and a copy of the Confidential Settlement Agreement to be appended to the Petition as Exhibit B and filed under seal

6 The parties respectfully request that the hearing on the Petition and Joint Motion be in closed court or in chambers, such that only the Plaintiffs, Plaintiffs' minor children,

WHEREFORE, the parties respectfully request that the Court grant this Joint Motion for Scheduling Order and schedule a hearing on the Petition and Joint Motion in closed court

or in chambers on August 24, 2011, or as soon thereafter as suits the convenience of the
Court

Respectfully submitted,
August 11, 2011

VILLARI, BRANDES & KLINE, P C

BY Peter M. Villari (By Permission)
Peter M. Villari, Esquire
Attorney I.D. #26875
161 Washington Street,
8 Tower Bridge, Suite 400
Conshohocken, PA 19428
Tel. (610) 729-2900
*Attorneys for Plaintiffs Stephanie Hallowich
and Chris Hallowich*

K&L GATES

BY Richard Hosking
for Richard Hosking, Esq.
Attorney I D #32982
James C Swetz, Esq.
Attorney I D #208717
K&L Gates Center
210 Sixth Avenue
Pittsburgh, Pennsylvania 15222
Tel (412) 355-6500
*Attorneys for Defendant Range Resources-Appalachia,
LLC*

ECKERT SEAMANS CHERIN & MELLOTT, LLC

BY Erin W. McDowell (By Permission)
Erin W. McDowell
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Pittsburgh, PA 15219
Tel (412) 566-6000
*Attorneys for Defendants MarkWest Energy
Partners, LP and MarkWest Energy Group, LLC*

BABST CALLAND CLEMENTS & ZOMINIR, PC

BY: 

Kathy Condo

Attorney I D #34910

Two Gateway Center, 8th Floor

Pittsburgh, PA 15222

Tel (412) 394-5400

Attorneys for Defendants Williams Field Services

Company, LLC and Laurel Mountain Midstream, LLC

By Permission

EXHIBIT A

J.

1. On May 27, 2010, the Plaintiffs, Stephanie and Chris Hallowich, filed a Praecipe to Issue Writ of Summons in the Court of Common Pleas of Washington County, Pennsylvania captioned "Stephanie Hallowich and Chris Hallowich, H/W v. Range Resources Corporation, Williams Gas/Laurel Mountain Mid-Stream, MarkWest Energy Partners, L.P., MarkWest Energy Group, L.L.C., and Pennsylvania Department of Environmental Protection", Docket No. 2010-3954

2. Thereafter, on June 24, 2011, all Parties, excluding the Pennsylvania Department of Environmental Protection, entered into the Settlement Agreement and Release ("Confidential Agreement") to resolve the above-captioned matter

3 The Confidential Agreement also resolves certain alleged claims of Plaintiffs' minor children

4. The Confidential Agreement is subject to specific confidentiality provisions agreed to by the Parties.

5. Because the Confidential Agreement must be presented as part of a Petition to the Court for approval of the settlement of the minors' claims, pursuant to Pa. R.C.P. 2039 and Local Rule 2039.1, the Parties respectfully request permission to file the Petition for Approval of Settlement of Minors' Actions, and the Confidential Agreement attached thereto, under seal.

WHEREFORE, the Parties respectfully request the Court permit the filing of the Petition for Approval of Settlement of Minors' Actions, and the Confidential Agreement attached thereto, under seal.

Respectfully submitted,

VILLARI, BRANDES & KLINE, P.C.

BY 

Peter M. Villari, Esquire
Attorney I.D. #26875
161 Washington Street,
8 Tower Bridge, Suite 400
Conshohocken, PA 19428
Tel: (610) 729-2900
*Attorneys for Plaintiffs STEPHANIE HALLOWICH
AND CHRIS HALLOWICH*

K&L GATES

BY: 

~~For~~ Richard Hosking, Esq.
Attorney I.D. #32982
James C. Swetz, Esq.
Attorney I.D. #208717
K&L Gates Center
210 Sixth Avenue
Pittsburgh, Pennsylvania 15222
Tel: (412) 355-6500
*Attorneys for Defendant Range Resources-
Appalachia, LLC*

ECKERT SEAMANS CHERIN & MELLOTT, LLC

BY:  (w/permission)

Erin W. McDowell
Attorney I.D. # 93684
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
Tel: (412) 566-6000
*Attorneys for Defendants MarkWest Energy
Partners, LP and MarkWest Energy Group, LLC*

BABST CALLAND CLEMENTS & ZOMINIR, PC

BY:

Kathy Condo (w/ permission)

Kathy Condo

Attorney I.D. #34910

Two Gateway Center, 8th Floor

Pittsburgh, PA 15222

Tel: (412) 394-5400

*Attorneys for Defendants Williams Field Services
Company, LLC and Laurel Mountain Midstream,
LLC*

VILLARI, BRANDES & KLINE, P.C.

BY Peter M. Villari, Esquire

Attorney ID #26875

8 Tower Bridge

161 Washington Street, 4th Floor

Conshohocken, PA 19428

(610) 729-2900 Ph

Attorneys for Plaintiffs

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PA
PREMISES LIABILITY ACTION - CIVIL CASE

STEPHANIE HALLOWICH AND

CHRIS HALLOWICH, H/W

179 Avella Road

Hickory, PA 15340

Plaintiffs

DOCKET NO 2010-3954

MAY TERM, 2010

JURY TRIAL DEMANDED

v

RANGE RESOURCES CORPORATION, et al.

380 Southpointe Boulevard

Canonsburg, PA 15317

CERTIFICATE OF SERVICE

Peter M. Villari, Esquire, hereby certifies that a copy of the Joint Motion to File
Petition for Approval of Settlement of Minors' Actions Under Seal, was served upon the
following this 27th day of July 2011, via first class mail:

Gail A. Myers, Esquire
Office of Chief Counsel
400 Waterfront Drive
Pittsburgh, PA 15222-4745

Kathy K. Condo, Esquire
Babst, Calland, Clements & Zomnir, P.C
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222

FILED

JUL 28 2011

PR. MATHENY
PROTHONOTARY

Erin Windle McDowell, Esquire
Eckert SeamansCherin & Mellott LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219

Richard Hosking, Esquire
James C Swetz, Esquire
K&L Gates
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222-2613

Respectfully submitted,

Date 7/27/11

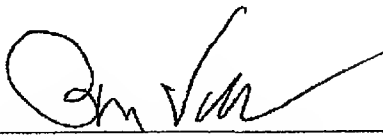
By 
Peter M Villan, Esquire
Attorney for Plaintiffs

EXHIBIT B

VILLARI, BRANDES & KLINE, P.C.

By. Peter M. Villari, Esquire

Attorney I.D. Nos : 26875

8 Tower Bridge, Suite 400

161 Washington Street

Conshohocken, PA 19428

610-729-2900

Attorneys for Plaintiffs

**IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY,
PENNSYLVANIA
PREMISES LIABILITY ACTION – CIVIL CASE**

STEPHANIE HALLOWICH AND CHRIS
HALLOWICH, H/W,

Plaintiffs,

v.

RANGE RESOURCES CORPORATION;
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM; MARKWEST ENERGY
PARTNERS, L P.; MARKWEST
ENERGY GROUP, L.L C.; and
PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Defendants.

CIVIL ACTION

Docket No 2010-3954

ORDER

AND NOW, this _____ day of _____, 2011, upon consideration of *Plaintiffs' Petition for Approval of Settlement of Minors' Actions pursuant to Pa.R.C.P 2039 and Local Rule 2039 I*, the Court having reviewed the Petition, supporting documents and any response thereto, and for good cause having been shown, it is hereby ORDERED and DECREED that the Petition is granted The global settlement in the amount of

\$750,000.00 in the amount of \$750,000.00 is approved. The allocation and distribution of settlement proceeds shall be as follows:

- | | | |
|-----|---|---------------|
| (a) | To: Villari, Brandes & Kline, P.C.
Reimbursement for Costs | \$ 5179.63 |
| (b) | To: Villari, Brandes & Kline, P.C.
Counsel Fee | \$ 150,000.00 |
| (c) | To: Stephanie and Chris Hallowich | \$ 594,820.37 |

BY THE COURT

J.

VILLARI, BRANDES & KLINE, P.C.

By. Peter M. Villari, Esquire
Attorney I D. Nos. 26875
8 Tower Bridge, Suite 400
161 Washington Street
Conshohocken, PA 19428
610-729-2900

Attorneys for Plaintiffs

**IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY,
PENNSYLVANIA
PREMISES LIABILITY ACTION – CIVIL CASE**

STEPHANIE HALLOWICH AND CHRIS)
HALLOWICH, H/W,)

Plaintiffs,)

v.)

RANGE RESOURCES CORPORATION,)
WILLIAMS GAS/LAUREL MOUNTAIN)
MIDSTREAM; MARKWEST ENERGY)
PARTNERS, L.P.; MARKWEST)
ENERGY GROUP, L.L.C., and)
PENNSYLVANIA DEPARTMENT OF)
ENVIRONMENTAL PROTECTION,)

Defendants.)

FILED

JUL 28 2011

P.R. MATHENY
PROTHONOTARY

CIVIL ACTION

Docket No. 2010-3954

FILED UNDER SEAL

**PLAINTIFFS' PETITION FOR APPROVAL OF SETTLEMENT OF
MINORS' ACTIONS PURSUANT TO PA.R.C.P. 2039 AND
LOCAL RULE 2039.1**

Plaintiffs, Stephanie and Chris Hallowich, and their minor children ("Plaintiffs") by and through their undersigned attorneys, Villari, Brandes & Kline, P.C., file this Petition for Approval of Settlement of Minors' Actions pursuant to Pa.R.C.P. 2039 and Local Rule 2039.1. In support thereof, Plaintiffs assert as follows.

1. Plaintiffs, Stephanie Hallowich and Christopher Hallowich, along with their minor

children, were and are citizens and residents of the Commonwealth of Pennsylvania, residing at 179 Avella Road, Hickory, Mt Pleasant Township, PA 15340

2. The Defendants in this lawsuit are

- a Range Resources-Appalachia, LLC ("Range Resources");
- b Williams Field Services Company, L.L.C. ("Williams");
- c Laurel Mountain Midstream, L.L.C. ("LMM");
- d MarkWest Energy Partners, L.P., and MarkWest Energy Group, L.L.C. ("MarkWest"), and
- e the Pennsylvania Department of Environmental Protection (DEP)

3 On May 27, 2010, the Plaintiffs, Stephanie and Chris Hallowich, filed a Praecipe to Issue Writ of Summons in the Court of Common Pleas of Washington County, Pennsylvania captioned "Stephanie Hallowich and Chris Hallowich, H/W v. Range Resources Corporation, Williams Gas/Laurel Mountain Mid-Stream, MarkWest Energy Partners, L.P., MarkWest Energy Group, L.L.C., and Pennsylvania Department of Environmental Protection", Docket No 2010-3954, through the filing of a Praecipe to Issue Writ of Summons.

4. Plaintiffs subsequently drafted, but did not file, a Complaint that added as named Plaintiffs their minor children, Nathan and Alyson, and included claims on behalf of the minor children. This Complaint was forwarded to Defendants on March 10, 2011, and is attached herein as Exhibit "A."

5. On June 24, 2011, all the parties, except the DEP, entered into the Settlement Agreement and Release ("Agreement") to resolve the above-captioned matter attached herein as Exhibit "B" (To be filed under Seal)

6. Such Agreement references, incorporates, includes, and releases the aforesaid Defendants from the claims of Plaintiffs' minor children and also references and incorporates

the aforesaid Complaint

7 Pursuant to P A R C P 2039 (a) ("no action to which a minor is a party shall be compromised, settled, or discontinued except after approval by the court pursuant to a petition . .). Washington County Local Rule 2039.1 requires Court approval of any settlements of claims involving minors. Accordingly Plaintiffs file this Petition and request the Court's approval of the settlement and permanent release of Plaintiffs' minor children's claims.

8 Plaintiffs and Defendants have settled this matter for a gross amount of \$ 750,000.00.

9. Counsel has incurred expenses to date (totaling \$ 5179.63) for which reimbursement is sought.

10. With respect to the settlement proceeds, counsel requests a fee of twenty percent (20%) of the net recovery after deduction of costs. Accordingly, counsel requests a fee in the amount of \$ 150,000.00.

11. Plaintiff minors' alleged claims involve nuisance and personal injury. There is presently no medical evidence that support that these claims are related to any exposure to the activities of Defendants as set forth in Plaintiffs' Complaint. See Plaintiffs' Attached Affidavit attached herein as Exhibit "C".

12. Additionally, the parties, as set forth in Paragraph 4 of the Agreement, have established an arbitration process to assess and adjudicate any possible future claims of personal injury of the Plaintiffs and Plaintiffs' minors, including medical examinations of the minors related thereto. In that regard, any possible claims for personal injuries to the minor Plaintiffs related to Defendants' alleged activities will be resolved in arbitration pursuant to the Agreement.

13. The net settlement after the deduction of costs and fees is \$ 594,820.37, which Plaintiffs

have elected to apportion as follows:

- a. For the claims of Stephanie and Chris Hallowich \$ 544,820 37
- b. For the claims of Nathan Joseph Hallowich, a minor \$ 10,000 00
- c. For the claims of Alyson Elizabeth Hallowich, a minor \$ 10,000.00

14. Stephanie and Chris Hallowich will hold the minor's distribution in a special trust and/or annuity account.

15. It is Plaintiffs' counsel opinion that based upon the facts and circumstances of the case, that the proposed settlement is reasonable and fair.

16. The parties pursuant to Local Rule 2039.1, hereby petition this Court for approval of this settlement involving Plaintiff minors.

17. Additionally, the parties request this Court mark the docket, including this Petition as Sealed.

Respectfully submitted,

VILLARI, BRANDES & KLINE, P.C.

BY: 

Peter M. Villari, Esquire
Attorney I.D # 26875, 59769
161 Washington Street,
8 Tower Bridge, Suite 400
Conshohocken, PA 19428
Tele: 610-729-2900
Attys for Plaintiffs

July 26, 2011

EXHIBIT

A

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

STEPHANIE HALLOWICH AND
CHRISTOPHER HALLOWICH, H/W,
AND THEIR MINOR CHILDREN, BY AND
THROUGH THEIR PARENTS AND NATURAL
GUARDIANS
179 Avella Road
Hickory, PA 15340

Plaintiffs

v.

RANGE RESOURCES CORPORATION
380 Southpointe Boulevard, Suite 300
Canonsburg, PA 15317

-and-

WILLIAMS GAS AND LAUREL MOUNTAIN
MIDSTREAM

1550 Coraopolis Heights Road, 2nd Floor
Moon Township, PA 15108

-and-

MARKWEST ENERGY PARTNERS, L.P
100 Plaza Drive, Suite 102
P O Box 279
Atlasburg, PA 15004

- and -

MARKWEST ENERGY GROUP, L L.C
100 Plaza Drive, Suite 102
P O. Box 279
Atlasburg, PA 15004

-and-

PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

400 Waterfront Drive
Pittsburgh, PA 15222-4745

-and-

MT PLEASANT TOWNSHIP,
31 McCarrell Road, Hickory, PA 15340

-and-

MT PLEASANT TOWNSHIP BOARD OF
SUPERVISORS,
31 McCarrell Road, Hickory, PA 15340

-and-

MT PLEASANT TOWNSHIP PLANNING
COMMISSION,

CIVIL ACTION NO.

JURY TRIAL DEMANDED

31 McCarrell Road, Hickory, PA 15340
-and-
MT PLEASANT TOWNSHIP ZONING
HEARING BOARD,
31 McCarrell Road, Hickory, PA 15340

COMPLAINT

Plaintiffs, Stephanie and Chris Hallowich, and their minor children, by and through their undersigned attorneys, Villari, Brandes & Kline, P C , herein assert upon information and belief the following.

SUMMARY OF CLAIMS

1. Plaintiffs Stephanie and Chris Hallowich, and their minor children ("Plaintiffs"), bring this action against Defendants Range Resources Corporation, Williams Gas and Laurel Mountain Midstream, MarkWest Energy Partners, L P.; MarkWest Energy Group L L C , the Pennsylvania Department of Environmental Protection ("DEP"); Mt Pleasant Township, Mt. Pleasant Township Board of Supervisors; Mt Pleasant Township Planning Commission, and Mt Pleasant Township Zoning Hearing Board for statutory violations and claims pursuant to, among other things, the Clean Air Act ("CAA"), 42 U S C §§7401-7671q et seq , Pennsylvania's Air Pollution Control Act ("APCA"), 35 P S §§ 4000.1-4015 et seq, Pennsylvania's Hazardous Sites Cleanup Act ("HSCA"), 35 P.S §§ 6020 101-6020 1305 et seq; Pennsylvania's Clean Streams Law ("CLA"), 25 Pa. Code 78 60, Pennsylvania's Storm Water Management Act, 32 P S §§ 680 1-680.17 et. seq ; 42 U S C S § 1983, and common law claims for trespass, private nuisance, negligence, battery, and ultra-hazardous activities .

PARTIES

2. At all times relevant herein, Plaintiffs, Stephanie Hallowich and Christopher Hallowich, along with their minor children, were and are citizens and residents of the Commonwealth of

Pennsylvania, residing at 179 Avella Road, Hickory, Mt Pleasant Township, PA 15340

3. Defendant, Range Resources Corporation ("Range"), upon information and belief, is a Texas Corporation, registered to do business in Pennsylvania, with an office located at 380 Southpointe Boulevard, Suite 300, Canonsburg, PA 15317 At all times relevant to this action, Defendant Range Resources Corporation, owned, operated, designed, installed, and were responsible for maintaining and/or were responsible for inspecting Plants, natural gas wells, impoundments, and other facilities, located at or in proximity to Plaintiffs' property

4. Defendants, Williams Gas and Laurel Mountain Midstream ("William Gas and Laurel Mountain"), upon information and belief, is a Pennsylvania Corporation, registered to do business in the Commonwealth of Pennsylvania, with an office located at 1550 Coraopolis Heights Road, 2nd Floor, Moon Township, PA 15108 At all times relevant to this action, Defendant William Gas and Laurel Mountain Midstream, owned, operated, were responsible for maintaining and/or were responsible for inspecting Plants, natural gas wells, impoundments, and other facilities, located at or in proximity to Plaintiffs' property.

5 Defendants, MarkWest Energy Partners, L.P and MarkWest Energy Group L L C ("MarkWest"), upon information and belief, are Pennsylvania Corporations, registered to do business in the Commonwealth of Pennsylvania, with offices located at 100 Plaza Drive, Suite 102, P O Box 279, Atlasburg, PA 15004 At all times relevant to this action, Defendant MarkWest, owned, operated, designed, installed, and were responsible for maintaining and/or were responsible for inspecting Plants, natural gas wells, impoundments, and other facilities, located at or in proximity to Plaintiffs' property

6. Defendant, Pennsylvania Department of Environmental Protection ("DEP"), is a government agency of the Commonwealth of Pennsylvania, with its principal offices located at 400 Waterfront Drive, Pittsburgh, PA 15222-4745 At all times relevant to this action,

Defendant DEP had and continues to have regulatory oversight concerning the safety, compliance and permitting of Defendants' Plants, natural gas wells, impoundments, and other facilities located at or in proximity to Plaintiffs' property and has had and continues to have a duty to Plaintiffs and others similarly situated to enforce the environmental laws of Pennsylvania and of the United States, and to timely protect Pennsylvania's environment, natural resources and the health, safety and property of its citizens relative thereto.

7. Defendants, Mt Pleasant Township, Mt Pleasant Township Board of Supervisors, Mt Pleasant Township Planning Commission and Mt. Pleasant Township Zoning Hearing Board (collectively "Mount Pleasant"), are local government agencies, with offices located at 31 McCarrell Road, Hickory, PA 15340. At all times relevant to this action, Defendant Mount Pleasant had and continues to have regulatory oversight concerning the zoning, safety, compliance, and permitting of Defendants' Plants, natural gas wells, impoundments, and other facilities, located at or in proximity to Plaintiffs' property and has had and continues to have a duty to Plaintiffs and others similarly situated to enforce the environmental laws of Pennsylvania, and the United States, and to timely protect the Township's environment, natural resources and the health and property of its citizens relative thereto.

8. Defendants, Range Resources Corporation, Williams Gas and Laurel Mountain Midstream, MarkWest Energy Partners, L P, MarkWest Energy Group L L C., the Pennsylvania Department of Environmental Protection ("DEP"), Mt Pleasant Township, Mt Pleasant Township Board of Supervisors, Mt Pleasant Township Planning Commission, and Mt. Pleasant Township Zoning Hearing Board are hereinafter sometimes referred to collectively as the ("Defendants")

JURISDICTION AND VENUE

9. This Honorable Court has jurisdiction over the subject matter of this action pursuant to

the Clean Air Act ("CAA"), 42 U.S.C. §§7401-7671q et seq., 42 U.S.C.S. § 1983; and pursuant to 28 U.S.C. §§ 1331, 1345, and 1355. The Court also has pendant jurisdiction of any claims under state law.

10 Venue is proper in the Western District of Pennsylvania, pursuant to the Clean Air Act ("CAA"), Sections 113(b), 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1391(b), (c), and 1395(a), because Defendants Range, Williams Gas and Laurel Mountain Midstream, and MarkWest, are located in this District and have their principal places of business in this District, the violations have occurred and are occurring in this District, and the plant at issue is located in this District.

GENERAL FACTUAL ALLEGATIONS

11 The matter herem involves complex legal issues relating to environmental contamination and adverse health exposures attributable to the natural gas drilling and processing activities of Defendants Range, William Gas and Laurel Mountain and MarkWest at or around Plaintiffs' home and property, located at 179 Avella Road, Hickory, PA 15340.

12 At or around June 28, 2005, Plaintiffs entered into a sales agreement for the purchase of property to build a home for themselves and their young children. Plaintiffs commenced construction of their new home on or around November 1, 2006, and moved into their new home by November 2, 2007.

13 Unknown to the Plaintiffs, the prior owner of their property, Nancy Stewart ("Stewart"), leased and/or sold to the Defendants the property adjacent to Plaintiffs' property for the purpose of drilling natural gas wells and extracting natural gas by way of a process called hydraulic fracturing and/or fracking, which is a drilling process by which chemical fluids are injected underground for the purpose of breaking-up Marcellus shale so as to release and harvest the natural gas trapped therein.

14 Also unknown to Plaintiffs at the aforesaid time, a lease to the mineral rights directly under Plaintiffs' property had also been executed by and between Stewart and Defendants

15 By May 24, 2007, Plaintiffs' home was built with the walls completely framed

16 Plaintiffs eventually installed a water well, their only source of water, in October of 2007

17 In July of 2007, without any notification to Plaintiffs, Defendant Range commenced the drilling and installation of a natural gas well ("Stewart Well # 8"), and began hydraulic fracking activities.

18 Such gas drilling and processing activities with respect to Stewart Well # 8 occurred less than 1000 feet (approximately 947 feet) from Plaintiffs' property and water well cap, despite regulations requiring that any gas well heads be at least 1000 feet from any water well caps and/or provide notice thereof to affected property owners, including any and all pre-drill water testing

19 Additional drilling, processing, and/or fracking activities also occurred without any notice to Plaintiffs from May to August of 2007 including, but not limited, to the construction of Stewart Well # 1, Stewart Well # 4, and Stewart Well # 6, all of which are in close proximity to and/or surrounding Plaintiffs' property.

20 In 2008, Defendant Range built the Stewart Compressor station less than 580 yards from Plaintiffs' home in order to further facilitate the processing and transporting of the natural gas it extracted from the aforesaid wells to market. Such facility is now owned, operated, and maintained by Defendant MarkWest.

21. Additionally, in 2008 Defendants Williams Gas and Laurel Mountain Midstream built a gas conditioning facility, the Laurel Mountain Midstream Dew Point Control Facility, approximately 340 yards from Plaintiffs' home in order to further facilitate the processing

and transporting of the said natural gas to market

22. In essence, over the course of a few years, Plaintiffs' once quiet, serene, safe, and pristine dream home and property became entrapped in the center of an extensive, unsafe, annoying, unpleasant, obnoxious and nuisance generating, drilling, processing and natural gas storage industrial site

23. Although Defendants' work is in an area zoned agricultural, Defendants installed and built an industrial facility and conducted natural gas drilling and processing activities on said land without properly securing needed permits and/or variances

24 Defendant, Mt. Pleasant Township, despite the relevant and applicable zoning laws, ordinances, regulations, and guidelines, allowed Defendants to install, build and operate the aforesaid natural gas drilling and processing facilities on the involved land without properly securing needed permits and/or variances, and without taking any reasonable steps to investigate, control, regulate and/or stop these activities of Defendants

25. In fact, Plaintiffs aver that relevant Township zoning laws with respect to Defendants were not properly followed, defended, upheld and/or enforced by Defendant Mt Pleasant, including but not limited to holding proper zoning hearings, providing residents proper notices of such hearings, implementing, defending, upholding and enforcing proper permitting regulations, statutes, and ordinances with respect to Defendants natural gas and drilling activities, and enforcing its own ordinances, specifically Ordinance No 118 requiring that a natural gas drilling facility and/or its operations shall "comply with applicable permits and requirements of the Pennsylvania Department of Environmental Protection, the U S Environmental Protection Agency, and other governmental authority having jurisdiction over its operations, and with all federal, state and local laws, ordinances and regulations promulgated to protect the environment or otherwise relating to environmental matters "

26 Additionally, Defendants Range, William Gas and Laurel Mountain, and MarkWest, failed to submit appropriate zoning hearing applications or to seek proper zoning permits and/or zoning variances in the construction, maintenance, installation, and operation of their aforesaid respective wells, plants and facilities

27 Plaintiffs believe, and therefore aver with respect to Defendants Range, William Gas and Laurel Mountain and MarkWest that relevant and applicable zoning procedures, hearings, codes, and regulations were not properly adhered to and/or followed, whereby Defendants were able, without limitation, to improperly commence, complete and continue their said natural gas operations in the aforesaid area, all to Plaintiffs great detriment, damage, injury and loss

28. Since Defendants' gas drilling, processing, fracking and transporting activities have commenced, the area at or in close proximity to Plaintiffs' property has been the subject of chronic, ongoing, unsafe, annoying, unpleasant, obnoxious and unceasing environmental pollution and contamination (water, soil, and air), with attendant exposure related concerns, all of which caused and continue to cause numerous public and private nuisances and many adverse health risks

29. For instance, on July 30, 2007, shortly after Defendants' commencement of gas drilling and processing activities related to Stewart Well # 8, Plaintiffs' immediate neighboring landowner, the Brickmeyers, filed a Complaint with the Pennsylvania Department of Environmental Protection ("DEP") alleging certain environmental contamination and health risk exposures to their water supply as a result of the natural gas drilling activities of Defendants in the area and the possible leakage of certain toxins and natural gas from the casing from Stewart Well # 8

30 As a result, the Brickmeyers were eventually removed from their home by Defendants

and relocated for a period of time, including being given an alternative water source and filtering equipment by Defendant Range

31 Additionally, Defendant Range made similar accommodations to other neighboring land owners due to concerns pertaining to environmental pollution and contamination and the adverse health risks associated with the aforesaid drilling activities, but similar accommodations have not been made with respect to Plaintiffs

32. On May 5, 2009, Plaintiffs filed a Complaint with the DEP regarding odors, smells and other noxious and unsafe fumes and emissions coming from Defendants' aforesaid plants and facilities At the same time, Plaintiffs also filed a Complaint with the DEP concerning the potential contamination of their drinking water from Defendants' activities.

33 On June 28, 2009, Plaintiffs filed a Complaint with the DEP regarding Stewart Well # 1 spraying an unknown and unsafe noxious liquid in the air, which liquid caused headaches and other health concerns to Plaintiffs and their minor children, as a result of which Plaintiffs and their children were forced to vacate their home

34. In June of 2009, Plaintiffs tested their well water, the results of which confirmed the presence of various volatile organic compounds (VOCs) including, but not limited to, acrylonitrile and styrene In fact, water samples taken at Plaintiffs' property showed the presence of acrylonitrile measured at approximately 146 UG/L, significantly above regulatory limits.

35 According to the U S Center for Disease Control (CDC), Acrylonitrile is a colorless liquid man-made chemical with a sharp, onion or garlic-like odor and is used to make other chemicals such as plastics, synthetic rubber and acrylic fibers.

36. With respect to Defendants' aforesaid gas drilling and processing activities, acrylonitrile is commonly used as part of the liner for the water impoundment and is also utilized as a

chemical to reduce friction related to the involved gas drilling and processing activities. The CDC also reports that "breathing high concentrations of acrylonitrile will cause nose and throat irritation, tightness in the chest, difficulty breathing, nausea, dizziness, weakness, headache, impaired judgment, and convulsions." Additionally, the CDC references that the "Department of Health and Human Services (DHHS) has determined that acrylonitrile may reasonably be anticipated to cause cancer in people."

37. Additionally, as a result of the aforesaid water pollution and contamination, Plaintiffs have incurred and continue to incur, significant costs and expenses in obtaining alternative potable water for cooking, drinking and bathing.

38. Additional water testing of neighboring wells and an adjacent stream have also produced results establishing the presence of acrylonitrile and other VOCs above regulatory limits.

39. Upon information and belief, Plaintiffs' air, ground and water have been subjected to past, ongoing and continued contamination and pollution caused by one or all of Defendants' aforesaid gas drilling and processing operations. The dispersion and distribution pathways of such pollution and contamination, all VOCs and hazardous chemicals that may be involved, the individual activities of each Defendant with regard thereto, and/or the specific health risks of such VOCs and hazardous chemicals and the pollution and contamination they cause are presently partially unclear to Plaintiffs due to the denial of their Motion for Pre-Complaint discovery regarding same by this Court and will require reasonable discovery to be definitely established.

40. To date, the DEP has taken no effective regulatory action against any of the Defendants for their aforesaid water contamination, pollution and/or toxic discharges, whether in the form of permitting, consent decrees, violations, fines or other regulatory action, nor has the

DEP indicated what or when it intends to do regarding same, instead choosing to disregard and ignore its aforesaid duty to Plaintiffs in such situations as here exist and thereby condone other Defendants' said activities

41 Drip gas is a natural gas condensate, a naturally occurring form of gasoline found near many oil and natural gas wells, found in natural gas pipelines, and/or is a byproduct of natural gas extraction

42. On or about June 28, 2009, a valve operated by Defendant Range at Stewart Well #1 malfunctioned, spraying "drip gas" into the air, as a result of which Plaintiffs and their children suffered from nausea, difficulty breathing, severe headaches, throat irritation, chest discomfort and other health issues, all of which forced them to physically leave their home.

43 Defendant Range has been the source and cause of numerous other similar adverse and harmful releases. Such releases are and were not permissible, nor were they reported to the DEP, and Plaintiffs remain uncertain as to what, if any, action by the DEP was taken. These releases by Defendant Range were the result of equipment malfunctions and/or the careless and negligent operation of their aforesaid facilities

44. Additionally, similar noxious gases, odors and harmful hazardous and/or toxic substances have been emitted from and/or otherwise released from Defendant Laurel Mountain's Dew Point Control Facility, as a result of its drilling and processing operations and/or as a result of related equipment malfunctions and/or the careless and neglect operation of their aforesaid facility

45 For example, on April 16, 2010, Defendants Williams Gas and/or Laurel Mountain caused an unauthorized release of natural gas or other hazardous and/or toxic substances into the air. Such releases caused Plaintiffs and their children to suffer from various adverse health issues including, but not limited to, respiratory problems, burning eyes, throat

irritation and severe headaches and, again, forced them to physically leave their home.

46. Defendants, Williams Gas and/or Laurel Mountain, as with the other natural gas Defendants herein, continue to be the source and cause of numerous other adverse and harmful toxic and/or hazardous substance releases. Such releases were and continue to be impermissible, may not have been reported to the DEP by said Defendants, and Plaintiffs are unaware what, if any, action was taken by the DEP with regard thereto because to date they have been wrongfully denied such information.

47. Plaintiffs aver that the aforesaid noxious gases and odors, harmful, hazardous, and/or toxic substances and said nuisances have been caused by and/or emitted and released from Defendant MarkWest's and other Defendants' facilities as a result of the aforesaid natural gas drilling and processing operations due to equipment malfunction, their negligent and careless conduct, and/or other causes directly under said Defendants' control.

48. For instance, on October 20, 2009, there was an unauthorized release of natural gas or other toxic and/or hazardous substances from Defendant MarkWest's facility. Such release caused Plaintiffs and their children to suffer from various adverse health issues including, but not limited to, respiratory problems, burning eyes, throat irritation and severe headaches, thereby again forcing them to physically leave their home. At that time, Plaintiffs filed a Complaint with the DEP regarding said incident but, to Plaintiffs' knowledge, the DEP chose to do nothing regarding same.

49. The aforesaid natural gas compressors and facilities of Defendants MarkWest, Range, Williams Gas and Laurel Mountain have been the source and cause of numerous other adverse and harmful releases of hazardous and/or toxic substances, all of which were impermissible, unplanned, a result of equipment malfunction, neglect and/or careless conduct, or other causes directly under the control of said Defendants, some if not all of

which were not reported to the DEP

50. For example, at or around December 9, 2009, Plaintiffs filed a Complaint with the DEP involving a fire at Defendant MarkWest's compressor station. To Plaintiffs' knowledge, nothing was done by the DEP, nor did the DEP previously know of this incident

51 Plaintiffs and their children also suffer from chronic, ongoing and unceasing public and private nuisance resulting from Defendants' aforesaid actions, in the form of noise, traffic, dust, released or emitted unsafe harmful liquids, unsafe storage compounds or facilities, noxious and unpleasant odors and/or various other safety and health risks, all of which adversely affect the value of their house and property, their quality of life, their safety, their health, and the health and safety of their pets.

52 Additionally, Plaintiffs have filed numerous Complaints with the Township involving nuisance related noise including, but not limited to January 15-17, 2010, January 27, 2010, March 8, 2010, March 10, 2010, March 20, 2010, March 22-23, 2010, April 2, 2010, July 9, 2010, August 18 2010, and October 28-29, 2010. Nothing has been done to abate same to Plaintiffs' knowledge despite Defendant, Mt Pleasant's, duty and responsibility to do so

53 Although Plaintiffs have and continue to attempt to sell their home, Plaintiffs have experienced immense difficulty and hardship in doing so to date, having been advised by real estate professionals that their property is virtually "unsellable." Plaintiffs have and continue to suffer a substantial diminution in their property's value as a result of Defendants' aforesaid actions, omissions, negligence, carelessness, and/or nuisances including, but not limited to, the aforesaid environmental and health harms and risks and failure to perform their legal duties and obligations to the public and Plaintiffs as set forth herein

54. Indeed, Plaintiffs are routinely exposed to deafening noise at all times during the day and night, which noise interferes with their sleep, constant traffic; unrelenting dust from the

traffic, inadequate protective fencing or barriers around dangerous natural gas facility impoundments, as well as the aforesaid hazardous, unsafe, and nuisance generating activities of Defendants previously set forth herein, all of which adversely affects their health, safety, enjoyment of their home and lives

55. Plaintiffs aver that the source and cause of such public and private nuisances is the joint and several conduct of Defendants. In fact, Plaintiffs have filed nuisance related Complaints with the Township concerning these activities including, but not limited to June 16, 2010, June 24, 2010, June 25, 2010; June 26, 2010; July 6, 2010, and July 9, 2010 To Plaintiffs' knowledge, nothing has been done regarding same despite Defendant, Mt Pleasant's, duty and responsibility to do so

56 On April 16, 2010, Plaintiffs filed a Complaint with the National Response Center ("NRC"), DEP, and Township involving an approximately seventy-five (75) minute unplanned and unauthorized release of harmful and toxic chemicals by Defendants Williams Gas and/or Laurel Mountain Midstream At no time prior thereto were Plaintiffs provided notice or warning of said release To Plaintiffs' knowledge nothing was done by the DEP, NRC, or the Township, regarding the same despite Defendant, their duty and responsibility to do so

57 Plaintiffs have filed further Complaints with the NRC and DEP as a result of unauthorized releases of harmful and toxic substances by Defendants on May 28, 2010, June 8, 2010; and June 19, 2010, all of which caused Plaintiffs and their children to suffer burning eyes, throats, and other health issues, and forced Plaintiffs and their minor children to evacuate their home To Plaintiffs' knowledge, nothing was done by the DEP or the Township, regarding the same despite their duty and responsibility to do so

58. Plaintiffs and their children have continued to experience ongoing similar harms,

adverse health effects and health risks as a result of the aforesaid releases and have filed additional Complaints regarding same with the NRC and DEP on September 7, 2010, September 23, 2010; October 14, 2010, October 20, 2010, November 11, 2010, December 28, 2010, and January 7, 2011. During such releases, Plaintiffs suffered from bloody noses, headaches, nausea, and were forced to evacuate their home. To Plaintiffs' knowledge nothing was done by the DEP or the Township regarding same despite their duty and responsibility to do so.

59. Despite active and continuing reasonable efforts by Plaintiffs to have Defendants, Range, MarkWest, and Williams Gas and Laurel Mountain cease and desist from their aforesaid unsafe, hazardous, and nuisance activities, Defendants continue to subject Plaintiffs and/or allow them to be subject to said activities and the adverse and harmful living and health conditions resulting therefrom.

60. Additionally, despite Plaintiffs' reasonable and continuing efforts to request the DEP to protect and enforce their rights as citizens and homeowners as it is required to do under pertinent laws, the DEP as of this date has not reasonably acted to regulate Defendants, Range, MarkWest and Williams Gas and Laurel Mountain's aforesaid actions or omissions and/or unlawful conduct relating to the environment.

61. Additionally, despite Plaintiffs' reasonable and continuing efforts to request the DEP to protect and enforce their rights as citizens and homeowners as it is required to do under pertinent laws, the DEP as of this date has not reasonably acted to regulate Defendants, Mt. Pleasant Township, Mt. Pleasant Township Board of Supervisors, Mt. Pleasant Township Planning Commission and Mt. Pleasant Township Zoning Hearing Board's aforesaid actions or omissions and/or unlawful conduct relating to the environment.

62. Plaintiffs have and continue to be subjected to said Defendants' aforementioned careless

actions and/or omissions, nuisances, their chronic, ongoing, unceasing, releases of toxic and hazardous discharges, their release and discharge of noxious gases, spraying "drip gas" and/or other potentially harmful hazardous and dangerous fumes and discharges; and/or failure to control or regulate same, all from Defendants, Range, MarkWest and Williams Gas and Laurel Mountain's aforesaid natural gas drilling, processing, and storage operations.

63 Indeed, on March 2, 2011, an explosion occurred at a compression station owned by Defendant MarkWest causing further nuisance, stress, and potential harm to Plaintiffs and others living in the area

CLAIMS FOR RELIEF

PLAINTIFFS V. DEFENDANTS RANGE, WILLIAM GAS AND/OR LAUREL MOUNTAIN, MARKWEST COUNT I – STATUTORY CLAIMS

64. Paragraphs 1 through 63 above, are incorporated herein by reference, as if fully set forth

65. The Clean Air Act ("CAA"), 42 U S C §§7401-7671q et seq, is designed to protect and enhance the quality of the nation's air, so as to promote the public health and welfare of the citizens See 42 U S C § 7401(b)(1)

66. Additionally, the Commonwealth of Pennsylvania has implemented other environmental regulations, statutes, and laws regarding the emission of hazardous materials, particulates, and substances into the air, water and environment. See Pennsylvania's Air Pollution Control Act ("APCA"), 35 P S §§ 4000 1-4015 et seq, Pennsylvania Clean Streams Law, 25 Pa Code § 78.60, and Pennsylvania's Storm Water Management Act, 32 P S §§ 680.1-680.17 et seq

67 Defendants, as corporate entities and as relevant "persons" within the meaning of the CAA, Section 302(e), 42 U S C. § 7602(e), had and have a legal duty, obligation, and were

and are required to comply with relevant federal and state regulations concerning emissions, particulates, and releases from their aforesaid respective Plants and operations, including relevant permitting, modification, equipment maintenance, assessment, testing, health analysis, and other ambient and clean air related requirements and regulations

68. Defendants violated applicable and relevant federal and state environmental regulatory standards by a) releasing hazardous, noxious, harmful and dangerous chemicals and substances into the air, water, and soil; b) failing to advise or provide public notice and/or warning to the public regarding same, c) failing to advise, warn, and/or provide notice to the DEP or other government regulatory authorities concerning such releases, d) failing to undergo the necessary federal and state mandated assessments, testing, and determinations in connection with such releases, e) failing to implement, install, utilize, and otherwise employ the federal and state mandated pollution controls, f) failing to operate their plants and facilities in compliance with federal and state emission limitations; g) failing to secure proper permits and/or to properly comply with any permits issued, h) continuing to operate without meeting additional federal and state regulatory standards and requirements, as required by the Clean Air Act ("CAA"), 42 U S C §§7401-7671q, et seq, and other federal and state regulations, including Pennsylvania's Air Pollution Control Act ("APCA"), 35 P S §§ 4000 1-4015 et seq, Pennsylvania Clean Streams Law, 25 Pa Code § 78 60; and Pennsylvania's Storm Water Management Act, 32 P S §§ 680 1-680 17 et seq

69. Defendants' conduct and environmental violations subjects them to an Order to pay for related response costs, past and future, and for the other relief requested by Plaintiffs herein

PLAINTIFFS V. DEP
COUNT II. – STATUTORY CLAIMS

70. Paragraphs 1 through 69 above, are incorporated herein by reference, as if fully set forth

71 The Clean Air Act (“CAA”), 42 U.S.C. §§7401-7671q et seq, is designed to protect and enhance the quality of the nation’s air, so as to promote the public health and welfare of the citizens. See 42 U.S.C. § 7401(b)(1).

72 Additionally, the Commonwealth of Pennsylvania has implemented other environmental regulations, statutes, and laws, regarding the emission of hazardous materials, particulates, and substances, into the air, water and environment. See Pennsylvania’s Air Pollution Control Act (“APCA”), 35 P.S. §§ 4000.1-4015 et. seq, Pennsylvania Clean Streams Law (“CLS”), 25 Pa. Code § 78.60, and Pennsylvania’s Storm Water Management Act (“SWMA”), 32 P.S. §§ 680.1-680.17 et seq

73 Defendant DEP is the entity charged with the duty to act on complaints under the CAA, APCA, the CLS, and the SWMA

74 Specifically, Defendant DEP had and has a legal duty and obligation, and was and is required, to insure that the other Defendants herein complied with relevant federal and state regulations concerning emissions, particulates, and releases from their aforesaid respective Plants and operations, including relevant permitting, modification, equipment maintenance, assessment, testing, health analysis, and other ambient and clean air related requirements and regulations

75 Instead of carrying out its legal duties, the DEP allowed Defendants to violate applicable and relevant federal and state environmental regulatory standards by: a) releasing hazardous, noxious, harmful, and dangerous chemicals and substances into the air, water, and

soil, b) failing to advise or provide public notice and/or warning to the public regarding same, c) failing to advise, warn, and/or provide notice to the DEP or other government regulatory authorities concerning such releases, d) failing to require and/or undergo the necessary federal and state mandated assessments, testing, and determinations in connection with such releases, e) failing to require the implementation of, or itself to implement, install, utilize, and otherwise employ the federal and state mandated pollution controls, f) failing to require the securement of proper permits and/or the proper compliance with any permits issued including, but not limited to land use and/or zoning permits; g) allowing Defendants, Range, MarkWest and Williams Gas and Laurel Mountain to operate without meeting additional federal and state regulatory standards, requirements, as required by the Clean Air Act ("CAA"), 42 U S C §§7401-7671q, et seq, and other federal and state regulations, including Pennsylvania's Air Pollution Control Act ("APCA"), 35 P S §§ 4000 1-4015 et seq, Pennsylvania Clean Streams Law, 25 Pa Code § 78 60, and Pennsylvania's Storm Water Management Act, 32 P S §§ 680 1-680 17 et seq

76. Defendant's conduct and environmental violations subjects it to an Order to pay for related response costs, past and future, and for the other relief requested by Plaintiffs herein

PLAINTIFFS V. DEFENDANT MT. PLEASANT
COUNT III. – STATUTORY CLAIMS

77. Paragraphs 1 through 76 above, are incorporated herein by reference, as if fully set forth.

78. The Clean Air Act ("CAA"), 42 U S C §§7401-7671q et. seq, is designed to protect and enhance the quality of the nation's air, so as to promote the public health and welfare of the citizens. See 42 U S C § 7401(b)(1)

79. Additionally, the Commonwealth of Pennsylvania has implemented other

environmental regulations, statutes, and laws, regarding the emission of hazardous materials, particulates, and substances, into the air See Pennsylvania's Air Pollution Control Act ("APCA"), 35 P S §§ 4000 1-4015 et seq, Pennsylvania Clean Streams Law ("CLS"), 25 Pa Code § 78 60; and Pennsylvania's Storm Water Management Act ("SWMA"), 32 P S §§ 680 1-680 17 et seq

80 Defendant Mt Pleasant is the entity or entities(s) charged with the duty to act on complaints under the CAA, APCA, the CLS, and the SWMA.

81. Specifically, Defendant Mt Pleasant had and has a legal duty and obligation, and was and is required, to insure that the other Defendants herein complied and continue to comply with relevant federal and state regulations concerning emissions, particulates, and releases from their aforesaid respective Plants and operations, including relevant permitting, modification, equipment maintenance, assessment, testing, health analysis, and other ambient and clean air related requirements and regulations

82 Instead of carrying out its legal duties, Defendant Mt Pleasant allowed Defendants to violate applicable and relevant federal and state environmental regulatory standards by: a) releasing hazardous, noxious, harmful, and dangerous chemicals and substances into the air, water, and soil, b) failing to advise or provide public notice and/or warning to the public regarding same, c) failing to advise, warn, and/or provide notice to the DEP or other government regulatory authorities concerning such releases, d) failing to require and/or undergo the necessary federal and state mandated assessments, testing, and determinations in connection with such releases; e) failing to require the implementation of, or itself to implement, install, utilize, and otherwise employ the federal and state mandated pollution controls, g) failing to require the securement of proper permits and/or the proper compliance with any permits issued including, but not limited to, land use and/or zoning permits, h)

allowing Defendants, Range, MarkWest and Williams Gas and Laurel Mountain to operate without meeting additional federal and state regulatory standards, requirements, as required by the Clean Air Act ("CAA"), 42 U.S.C. §§7401-7671q, et seq., and other federal and state regulations, including Pennsylvania's Air Pollution Control Act ("APCA"), 35 P.S. §§ 4001-4015 et seq., Pennsylvania Clean Streams Law, 25 Pa. Code § 7860, and Pennsylvania's Storm Water Management Act, 32 P.S. §§ 6801-68017 et seq.

83 Defendant, Mt Pleasant Township, despite the relevant and applicable zoning laws, ordinances, regulations and guidelines, allowed Defendants, Range, MarkWest and Williams Gas and Laurel Mountain to install, build and conduct natural gas drilling and processing activities on said land without properly securing needed permits and/or variances

84. In fact, Plaintiffs aver that relevant Township zoning laws with respect to Defendants, Range, MarkWest and Williams Gas and Laurel Mountain, were not properly followed and/or enforced by Defendant Mt Pleasant including, but not limited to, holding proper zoning hearings, providing residents proper notice of such hearings, implementing and enforcing proper permitting regulations, statutes, and ordinances with respect to Defendants natural gas and drilling activities, and enforcing its own ordinances, specifically Ordinance No 118 requiring that a natural gas drilling facility and/or its operations shall "comply with applicable permits and requirements of the Pennsylvania Department of Environmental Protection, the U.S. Environmental Protection Agency, and other governmental authority having jurisdiction over its operations, and with all federal, state and local laws, ordinances and regulations promulgated to protect the environment or otherwise relating to environmental matters "

85 Defendant's conduct and environmental violations subjects it to an Order to pay for related response costs, past and future, and for the other relief requested by Plaintiffs herein

PLAINTIFFS V. DEFENDANTS RANGE,
WILLIAM GAS AND LAUREL MOUNTAIN, MARKWEST
COUNT IV - VIOLATION OF THE HAZARDOUS SITES CLEANUP ACT

86. Paragraphs 1 through 85, above, are incorporated herein by reference, as if fully set forth

87. Defendants are all "persons" within the scope and meaning of Section 103, 35 P S §6020 103, of the Hazardous Sites Cleanup Act (hereinafter "HSCA")

88 Defendants generated a "hazardous substance" including, but not limited to, the aforesaid harmful chemicals and toxins in and by their aforesaid emissions, discharges and releases within the meaning and scope of Section 103, 35 P S. §6020.103.

89 Defendants are liable under Section 701 and section 507 of the HSCA as a responsible person who generated hazardous substances including, but not limited to, the aforesaid harmful chemicals and toxins, which substances were released or deposited in, on or around Plaintiffs' real property, and/or in the described areas and environment around their aforesaid Plants, and which caused and continue to cause a release, or threat of release, of hazardous substances, 35 P S §6020 701, 35 P S §6020 507

90 Defendants are liable under Section 507 and Section 1101 of the HSCA as one who caused and is causing a public nuisance by its generation and deposit of hazardous substances into and onto the soil of the Plaintiffs' properties, and into the ambient air, water, and ground, this in violation of all of the aforesaid provisions of the HSCA.

91 As a direct and proximate result of the aforesaid release and/or threat of release of hazardous substances and/or the creation of a public nuisance by Defendants, Plaintiffs have and will incur response costs pursuant to Sections 702 and 1101

92 Response costs must include a Health Assessment Fund that will afford medical examinations for Plaintiffs, who were exposed to the hazardous substances contained in the

aforesaid releases and emissions by Defendants. The purpose of such an assessment is to determine if the Plaintiffs have actually suffered adverse health consequences from the aforesaid emissions and releases by Defendants, Range, MarkWest and Williams Gas and Laurel Mountain, and to assure that any adverse health consequences are caught as early as possible and mitigated via medical monitoring and/or medical treatment of same.

93. Defendants' aforesaid conduct and environmental violations subjects them to an Order to pay for related response costs, past and future, and for the other relief requested by Plaintiffs herein.

PLAINTIFFS V. DEP
COUNT V. - VIOLATION OF THE HAZARDOUS SITES CLEANUP ACT

94. Paragraphs 1 through 93, above, are incorporated herein by reference, as if fully set forth.

95. Defendant DEP is the entity charged with the duty to act on complaints under Section 103, 35 P.S. §6020.103, of the Hazardous Sites Cleanup Act (hereinafter "HSCA").

96. Specifically, Defendant DEP had and has a legal duty and obligation, and was and is required, to insure that Defendants herein comply with relevant federal and state regulations concerning emissions, particulates and releases from the aforesaid respective Plants and operations, including relevant permitting, modification, equipment maintenance, assessment, testing, health analysis, and other ambient and clean air related requirements and regulations.

97. Instead of carrying out its legal duties, Defendant DEP allowed Defendants to violate applicable and relevant federal and state environmental regulatory standards by: a) releasing hazardous, noxious, harmful, and dangerous chemicals and substances into the air, water, and soil, b) failing to advise or provide public notice and/or warning to the public regarding same, c) failing to advise, warn, and/or provide notice to the DEP or other government

regulatory authorities concerning such releases, d) failing to require and/or undergo the necessary federal and state mandated assessments, testing, and determinations in connection with such releases, e) failing to require the implementation of, or itself to implement, install, utilize, and otherwise employ the federal and state mandated pollution controls, f) failing to require the securement of proper permits and/or the proper compliance with any permits issued including, but not limited to, land use and zoning permits, g) allowing Defendants, Range, MarkWest and Williams Gas and Laurel Mountain to operate their plants and facilities in compliance with federal and state emission limitations, and h) continuing to operate without meeting additional federal and state regulatory standards, requirements, as required by Section 103, 35 P.S. §6020 103, of the Hazardous Sites Cleanup Act (hereinafter "HSCA")

98. Instead of carrying out its regulatory duties, the DEP allowed the other Defendants to generate a "hazardous substance" including, but not limited to, the aforesaid harmful chemicals and toxins in and by the aforesaid emissions, discharges and releases within the meaning and scope of Section 103, 35 P.S. §6020 103

99 The DEP should have but failed to hold the other Defendants liable under Section 701 and section 507 of the HSCA as responsible person(s) who generated hazardous substances including, but not limited to, the aforesaid harmful chemicals and toxins, which substances were released or deposited in, on or around Plaintiffs' real property, and/or in the described areas and environment around their aforesaid facilities, and which caused a release, or threat of release, of hazardous substances, 35 P.S. §6020 701, 35 P.S. §6020 507

100 The DEP should have but failed to hold the other Defendants liable under Section 507 and Section 1101 of the HSCA as one who caused and is causing a public nuisance by their generation and deposit of hazardous substances into and onto the soil of the Plaintiffs'

properties, and into the ambient air, water, and ground, this in violation of all of the aforesaid provisions of the HSCA

101 As a direct and proximate result of the aforesaid release and/or threat of release of hazardous substances and/or the creation of a public nuisance by the other Defendants, Plaintiffs have and will incur response costs pursuant to Sections 702 and 1101

102 Defendant's aforesaid conduct and environmental violations subjects it to an Order to pay for related response costs, past and future, and for the other relief requested by Plaintiffs herem

PLAINTIFFS V. DEFENDANT MT. PLEASANT
COUNT VI - VIOLATION OF THE HAZARDOUS SITES CLEANUP ACT

103 Paragraphs 1 through 102, above, are incorporated herein by reference, as if fully set forth

104 Defendant Mt Pleasant is the entity or entities charged with the duty to act on complaints under Section 103, 35 P.S. §6020 103, of the Hazardous Sites Cleanup Act (hereinafter "HSCA")

105. Specifically, Defendant Mt Pleasant had and has a legal duty and obligation, and was and is required, to insure that Defendants, Range, MarkWest and Williams Gas and Laurel Mountain herein comply with relevant federal and state regulations concerning emissions, particulates, and releases from their aforesaid respective Plants and operations, including relevant permitting, modification, equipment maintenance, assessment, testing, health analysis, and other ambient and clean air related requirements and regulations

106 Instead of carrying out its legal duties, Defendant Mt Pleasant allowed Defendants, Range, MarkWest and Williams Gas and Laurel Mountain to violate applicable and relevant federal and state environmental regulatory standards by a) releasing hazardous, noxious,

harmful, and dangerous chemicals and substances into the air, water, and soil, b) failing to advise or provide public notice and/or warning to the public regarding same, c) failing to advise, warn, and/or provide notice to the DEP or other government regulatory authorities concerning such releases, d) failing to require and/or undergo the necessary federal and state mandated assessments, testing, and determinations in connection with such releases, e) failing to require the implementation of, or itself to implement, install, utilize, and otherwise employ the federal and state mandated pollution controls, f) failing to require the securement of proper permits and/or the proper compliance with any permits issued including, but not limited to, land use and zoning permits; g) allowing Defendants, Range, MarkWest and Williams Gas and Laurel Mountain to operate their plants and facilities in compliance with federal and state emission limitations, and h) continuing to operate without meeting additional federal and state regulatory standards, requirements, as required by Section 103, 35 P S §6020 103, of the Hazardous Sites Cleanup Act (hereinafter "HSCA")

107 Instead of carrying out its regulatory duties, Defendant Mt Pleasant allowed said Defendants to generate a "hazardous substance" including, but not limited to, the aforesaid harmful chemicals and toxins in and by their aforesaid emissions, discharges and releases within the meaning and scope of Section 103, 35 P S §6020 103

108 Defendant Mt Pleasant should have but failed to hold said Defendants liable under Section 701 and section 507 of the HSCA as responsible person(s) who generated hazardous substances including, but not limited to, the aforesaid harmful chemicals and toxins, which substances were released or deposited in, on or around Plaintiffs' real property, and/or in the described areas and environment around their aforesaid facilities, and which caused a release, or threat of release, of hazardous substances, 35 P S §6020 701, 35 P S §6020 507

109 Defendant Mt Pleasant should have but failed to hold said Defendants liable under

Section 507 and Section 1101 of the HSCA as one who caused and is causing a public nuisance by its generation and deposit of hazardous substances into and onto the soil of the Plaintiffs' properties, and into the ambient air, water, and ground, this in violation of all of the aforesaid provisions of the HSCA

110 As a direct and proximate result of the aforesaid release and/or threat of release of hazardous substances and/or the creation of a public nuisance by said Defendants, Plaintiffs have and will incur response costs pursuant to Sections 702 and 1101

111 Defendant, Mt Pleasant Township, despite the relevant and applicable zoning laws, ordinances, regulations and guidelines allowed said Defendants to install, build and conduct, and continue to conduct, natural gas drilling and processing activities on said land without properly securing needed permits and/or variances.

112 In fact, Plaintiffs aver that relevant Township zoning laws with respect to Defendants were not properly followed, adhereto, interpreted and/or enforced by Defendant Mt Pleasant including, but not limited to, holding proper zoning hearings, providing residents proper notice of such hearings, implementing and enforcing proper permitting regulations, statutes, and ordinances with respect to said Defendants natural gas and drilling activities, and enforcing its own ordinances, specifically Ordinance No 118 requiring that a natural gas drilling facility and/or its operations shall "comply with applicable permits and requirements of the Pennsylvania Department of Environmental Protection, the U.S. Environmental Protection Agency, and other governmental authority having jurisdiction over its operations, and with all federal, state and local laws, ordinances and regulations promulgated to protect the environment or otherwise relating to environmental matters "

113. Defendant's aforesaid conduct and environmental violations subjects it to an Order to pay for related response costs, past and future, and for the other relief requested by Plaintiffs

herein

PLAINTIFFS V. ALL DEFENDANTS
COUNT VII. – TRESPASS

114 Plaintiffs incorporate herein Paragraphs 1 through 113 of their Complaint as if set forth in full

115 Defendants, individually and/or through their agents, servants and/or employees, knowingly, intentionally, willfully, recklessly and/or negligently caused or allowed a wrongful physical entry onto, and contamination of, Plaintiffs' real property by depositing, and/or allowing and/or causing the deposit thereon, of the aforesaid toxic and hazardous substances or particulates, the release of which came from the aforesaid Defendants' respective facilities and plants

116 The aforesaid hazardous and toxic substances continue to contaminate Plaintiffs' real property, environment and the surrounding surface and subsurface areas thereof

117. Said deposits and contamination are illegal, unauthorized and unreasonable and without any consent or acquiescence of the Plaintiffs

118. Defendants had and continue to have a duty not to cause, permit or allow such hazardous and toxic substances to invade or deposit in or on the real property and environment of Plaintiffs, which duty Defendants breached and continue to breach

119 As a direct and proximate result of Defendants' aforesaid acts of trespass, Defendants have caused actual and substantial damage to Plaintiffs' exclusive possession of their real property and have unreasonably interfered with their use and enjoyment of their real property, and have caused physical and emotional injury and distress to Plaintiffs, all to their severe economic and non-economic detriment and injury Defendants are therefore liable for the cost to abate the aforementioned trespass and for all damages arising from the trespass

and any abatements, including compensatory and punitive damages, and should be subject to injunctive relief requested herein to halt the continuing trespass and to remove, and cease, any remaining pollution as described aforesaid, such as ground water wastes and other hazardous or toxic substances from Plaintiffs' property and environment

120 Defendants' aforesaid conduct and environmental violations subject them to an Order to pay for related response costs, past and future, and for the other relief requested by Plaintiffs herein

PLAINTIFFS V. ALL DEFENDANTS
COUNT VIII. - COMMON LAW PRIVATE NUISANCE

121 Plaintiffs incorporate herein Paragraphs 1 through 120 of their Complaint as if set forth in full

122 Plaintiffs, as owners of real estate located in this jurisdiction, have a right to the quiet use and enjoyment of their real property, as well as the right to travel to, use and gather in public places immediately surrounding their real property, including the said Defendants' respective plants and facilities.

123 Defendants, as set forth in the preceding paragraphs, have created and maintained a continuing nuisance to Plaintiffs and others similarly situated by way of their conduct and aforementioned toxic, harmful, adverse and hazardous emissions, and releases

124. Defendants knew and/or should have known that the said releases and deposits of the aforesaid dangerous and harmful pollution and waste products onto or near the Plaintiffs' and others' real property, into their environment, and onto or near other property was substantially certain to result from their aforesaid actions and omissions, including causing a significant diminution of the value of Plaintiffs' property, and significant detriment to Plaintiffs' quality of life and use and enjoyment of their property.

125. Defendants, as a result of releasing, depositing, allowing and/or causing the release and/or deposit of, the aforesaid dangerous and harmful pollution and waste products onto Plaintiffs' and others properties as described herein, and their failure to fully and adequately remediate such deposits, has caused an unwarranted, substantial and unreasonable and unlawful use of these properties as toxic dump sites and has substantially interfered with Plaintiffs' reasonable and safe use, development and enjoyment of their property and the community in which they are located

126. As a direct and proximate result of Defendants' creation and perpetuation of the aforesaid private nuisance, Plaintiffs have suffered a diminution in the value of their real property, as well as other direct and consequential economic damages including, but not limited to, the ability to sell their home for market value and having to sell their home with the need for disclosures pertaining to the aforesaid dangerous and harmful pollution and deposits of toxic substances on their real property, all of which adversely affected and affects their property and health

127 As a direct and proximate result of Defendants' intentional, willful, wanton, substantial and unreasonable interference with Plaintiffs' reasonable and safe use and enjoyment of their real property, Defendants are liable for the cost to abate and remediate the aforementioned nuisance, for all damages arising from said nuisance, including compensatory and punitive damages, and should be subjected to the injunctive relief requested herein, including the requiring of an immediate cessation of the said nuisance.

128. Defendants' conduct and environmental violations subjects them to an Order to pay for the aforesaid response costs, past and future, and for the other relief requested by Plaintiffs herein

PLAINTIFFS V. ALL DEFENDANTS
COUNT IX. - NEGLIGENCE

129 Plaintiffs incorporate herein Paragraphs 1 through 128 of their Complaint, as if set forth in full.

130. Defendants owe a duty of reasonable care to Plaintiffs and the public because Defendants are the owner and/or generator, regulators, and government agencies involved with the aforesaid harmful and adverse emissions and releases, and the generation of the herein described toxic and hazardous substances, from the said drilling, processing, and/or storage of natural gas to produce and sell energy for profit. Thus, Defendants owe a duty not to release, emit or expose real and personal property or persons, including Plaintiffs, to the aforesaid toxic and hazardous substances, and/or to permit same to infiltrate and emit into, onto and/or to contaminate their environment and communities.

131. Defendants also intentionally, recklessly, wantonly, carelessly, and/or negligently violated and/or ignored and/or bypassed relevant zoning laws, ordinances, and regulations in designing, operating, inspecting, maintaining and/or continuing to operate their respective Plants and facilities.

132. Defendants breached their aforesaid duty by, among other things, designing, operating, inspecting and/or maintaining their respective plants and facilities, and pollution control systems in substandard and/or unlawful fashion, and/or allowing this conduct to occur and continue to occur, by a) the release of hazardous, noxious, harmful, and dangerous chemicals into the air, water, and soil; b) the failure to advise or provide public notice and/or warning to the public regarding same; c) the failure to advise, warn, and/or provide notice to government regulatory authorities concerning such releases, d) the failure to have the necessary federal and state mandated assessments, testing, and determinations in connection

with such releases occur, e) the failure of the natural gas Defendants herein to implement, install, utilize, and otherwise employ the federal and state mandated pollution controls; f) the failure of the natural gas Defendant herein to operate their plants in compliance with federal and state emission limitations, g) the continuing operation of the said natural gas facilities without meeting additional federal and state regulatory standards, requirements, as required by the Clean Air Act ("CAA"), 42 U.S.C. §§7401-7671q et. seq. and other federal and state regulations, including Pennsylvania's Air Pollution Control Act ("APCA"), 35 P.S. §§ 4000.1-4015 et seq., Pennsylvania Clean Streams Law, 25 Pa. Code § 78.60, and Pennsylvania's Storm Water Management Act, 32 P.S. §§ 680.1-680.17 et seq., and for that conduct described in Paragraph 127 aforesaid

133 Defendants knew or reasonably should have known that their aforesaid conduct violated State and Federal air pollution laws and the Pennsylvania Hazardous Sites Cleanup Act and other State and Federal Environmental Laws, and that as a result of their aforesaid negligence, carelessness, gross negligence, willful or wanton conduct and/or recklessness, the aforesaid hazardous and toxic substances or releases or emissions would cause damage to the Plaintiffs' real and personal property and to their health and cause them repeated personal exposure to dangerous and toxic materials and the aforesaid nuisances

134 Moreover, Defendants' aforesaid acts and omissions were committed intentionally and/or with such gross negligence as to establish a wanton or reckless disregard for the rights, safety and health of Plaintiffs

135 At all relevant times, Defendants failed and refused, and continue to refuse, to assure the proper design, inspection, repair and safe and compliant use of the aforesaid plants and facilities, particularly the pollution control devices and equipment thereof, and have thereby acted negligently, grossly negligently, recklessly, carelessly and in violation of their

reasonable obligations to safeguard those owning and residing in the surrounding and adjacent areas, including Plaintiffs.

136 As a direct and proximate result of their aforesaid negligence and outrageous conduct, Defendants are liable to Plaintiffs for the requested compensatory and punitive damages, as well as the herein requested injunctive relief to stop the continuing harmful emissions and releases from the aforesaid natural gas plants and facilities

137. Defendants' conduct and environmental violations subjects them to an Order to pay for the aforesaid response costs, past and future, and for the other relief requested by Plaintiffs herein

PLAINTIFFS V. RANGE,
WILLIAM GAS AND LAUREL MOUNTAIN, MARKWEST
COUNT X. - ULTRA-HAZEROUS ACTIVITY

138 Plaintiffs incorporate herein Paragraphs 1 through 137 of their Complaint, as if set forth in full.

139 Defendants owe a duty of reasonable care to Plaintiffs and the public because Defendants are the owner and/or generator, regulators, and/or government agencies responsible for the oversight, monitoring, and regulation of the aforesaid occurrence of the harmful and adverse emissions and releases, and the generation of the herein described toxic and hazardous substances from the aforesaid drilling, processing and/or storage of natural gas to produce and sell energy for profit. Thus, Defendants owe a duty not to release, emit or expose real and personal property or persons, including Plaintiffs, to the aforesaid toxic and hazardous substances, and/or to permit same to infiltrate and emit into, onto and/or to contaminate their environment and communities. Defendants had a duty to regulate, monitor, and make the public aware of any ultra-hazardous, harmful and/or dangerous activities

140. Defendants also intentionally, recklessly, wantonly, carelessly, and/or negligently violated and/or ignored and/or bypassed relevant zoning laws, ordinances, and regulations in designing, operating, inspecting, maintaining and/or continuing to operate their respective Plants and facilities

141. Defendants are engaged in and/or allowing an ultra-hazardous activity in the drilling, processing, and/or storage of natural gas to produce and sell energy for profit, wherein such a) necessarily involves a risk of serious harm to the person, land, or chattels of others which cannot be eliminated by the exercise of the utmost care, and (b) is not a matter of common usage

142 The aforesaid natural gas explosion occurring on March 2, 2011 is an example by which Defendant's conduct constitutes and allows an ultra-hazardous activity in the drilling, processing, and/or storage of natural gas to produce and sell energy for profit, and Defendants continue to engage in and allow activity that constitutes ultra-hazardous activities

143 Defendants breached their aforesaid duty by, among other things, designing, operating, inspecting and/or maintaining their respective plants and facilities and pollution control systems in substandard and/or unlawful fashion, and/or allowing this conduct to occur and continue to occur by. a) the release of hazardous, noxious, harmful, and dangerous chemicals into the air, water, and soil, b) the failure to advise or provide public notice and/or warning to the public regarding same, c) the failure to advise, warn, and/or provide notice to government regulatory authorities concerning such releases, d) the failure to have the necessary federal and state mandated assessments, testing, and determinations in connection with such releases occur, e) the failure of the natural gas Defendants herein to implement, install, utilize, and otherwise employ the federal and state mandated pollution controls, f) the

failure of the natural gas Defendants herein to operate their plants in compliance with federal and state emission limitations, g) the continuing operation of the said natural gas facilities without meeting additional federal and state regulatory standards, requirements, as required by the Clean Air Act ("CAA"), 42 U S C §§7401-7671q et seq and other federal and state regulations, including Pennsylvania's Air Pollution Control Act ("APCA"), 35 P S §§ 4000 1-4015 et seq, Pennsylvania Clean Streams Law, 25 Pa Code § 78 60, and Pennsylvania's Storm Water Management Act, 32 P S. §§ 680 1-680 17 et seq

144. Defendants knew or reasonably should have known that their aforesaid conduct constitutes an ultra-hazardous activity and violates State and Federal air pollution laws and the Pennsylvania Hazardous Sites Cleanup Act and other State and Federal Environmental Laws, and that as a result of their aforesaid negligence, carelessness, gross negligence, willful or wanton conduct and/or recklessness, the aforesaid hazardous and toxic substances or releases or emissions, would cause damage to the Plaintiffs' real and personal property and to their health and cause them repeated personal exposure to dangerous and toxic materials and the aforesaid nuisances

145. Moreover, Defendants' aforesaid acts and omissions were committed intentionally and/or with such gross negligence as to establish a wanton or reckless disregard for the rights, safety and health of Plaintiffs

146 At all relevant times, Defendants failed and refused, and continue to refuse, to assure the proper design, inspection, repair and safe and compliant use of the aforesaid plants and facilities, particularly the pollution control devices and equipment thereon, and have thereby acted negligently, grossly negligently, recklessly, carelessly and in violation of their reasonable obligations to safeguard those owning and residing in the surrounding and adjacent areas, including Plaintiffs

147 As a direct and proximate result of their aforesaid negligence and outrageous conduct, Defendants are liable to Plaintiffs for the requested compensatory and punitive damages, as well as the herein requested injunctive relief to stop the continuing harmful emissions and releases from the aforesaid natural gas plants and facilities

148 Defendants' conduct and environmental violations subjects them to an Order to pay for the aforesaid response costs, past and future, and for the other relief requested by Plaintiffs herein

PLAINTIFFS V. DEP AND MOUNT PLEASANT TOWNSHIP DEFENDANTS
COUNT XI. – VIOLATION OF 42 U.S.C.S. § 1983.

149 Plaintiffs incorporate herein Paragraphs 1 through 148 of their Complaint, as if set forth in full

150 At or around November 1, 2006, Defendant Pennsylvania Department of Environmental Protection ("DEP") and Defendants, Mt Pleasant Township, Mt Pleasant Township Board of Supervisors, Mt Pleasant Township Planning Commission and Mt Pleasant Township Zoning Hearing Board (collectively "Mount Pleasant"), have had and continue to have knowledge of or reasonably should have been aware of the significant and substantial water, air, and soil pollution, contamination, and risks and harms, at or around Plaintiffs' property, as a result of Defendants' gas drilling operations, storage, and activities

151 Defendant Pennsylvania Department of Environmental Protection ("DEP") and Defendants, Mt Pleasant Township, Mt Pleasant Township Board of Supervisors, Mt Pleasant Township Planning Commission and Mt Pleasant Township Zoning Hearing Board (collectively "Mount Pleasant"), have had and continue to be working under the color of state law, in failing to properly monitor, regulate, warn, and otherwise act upon the substantial water, air, and soil pollution, contamination, and risks and harms, at or around Plaintiffs'

property

152 Defendant Pennsylvania Department of Environmental Protection ("DEP") and Defendants, Mt Pleasant Township, Mt Pleasant Township Board of Supervisors, Mt Pleasant Township Planning Commission and Mt Pleasant Township Zoning Hearing Board (collectively "Mount Pleasant"), have had and continue to be working under their official authority, in failing to properly monitor, regulate, warn, and otherwise act upon the substantial water, air, and soil pollution, contamination, and risks and harms, at or around Plaintiffs' property

153 Despite having knowledge or reasonably being aware of such significant and substantial water, air, and soil pollution, contamination, and risks and harms, at or around Plaintiffs' property, as a result of Defendants' gas drilling operations, storage, and activities, the DEP and Mount Pleasant, have intentionally, deliberately, recklessly, and negligently, disregarded Plaintiffs' numerous complaints and concerns

154. Such deliberate indifference by the DEP and Mount Pleasant, are conduct by state actors that shocks the conscious concerning the public health and welfare and environmental protection of the community

155 Plaintiffs, as residents of Mount Pleasant Township and of the Commonwealth of Pennsylvania and privy to the constitutional protections of the United States Constitution, including but not limited to 42 U S C S § 1983 Plaintiffs' have a constitutional right be free from reasonably foreseeable and direct harm as a result of Defendants' gas drilling operations, storage, and activities The DEP and Mount Pleasant have disregarded Plaintiffs' safety and well-being, and right to reside in their home, without nuisance, or the risk of environmental harm or concern over safety

156. Defendant s DEP and Mount Pleasant affirmatively used their authority, including but

not limited to failure to enforce relevant environmental laws and regulations, in a manner that has and continues to cause Plaintiffs substantial harms, both environmental, health, and public safety

157 Defendants' conduct and environmental violations subjects them to an Order to pay for the aforesaid response costs, past and future, and for the other relief requested by Plaintiffs herein

WHEREFORE, Plaintiffs, respectfully request this Honorable Court to

(a) Issue an Order that Defendants, Range, MarkWest and Williams Gas and Laurel Mountain, must cease and desist from operating their plants and facilities unless and until they can operate same in a legal, properly permitted, properly zoned, safe, responsible, prudent and proper manner so as to prevent continuation of the aforesaid chronic, harmful, and illicit emissions and releases and nuisances, that have harmed, and in the future will harm, Plaintiffs' real and personal property and their environment and persons,

(b) Issue an Order requiring Defendants to fund a Health Assessment Study, as authorized by HSCA, that is sufficient to assess and determine any adverse health effects resulting from Plaintiffs' exposure to Defendants' aforesaid emissions, releases and other harmful materials through all relevant exposure pathways, such as inhalation and direct contact,

(c) Issue an Order requiring Defendants to fund medical monitoring of Plaintiffs in the event the aforesaid Health Assessment Study establishes that they have suffered physical injury, disease or illness from exposure to the aforesaid emissions and releases, and/or are reasonably likely to in the future,

(d) Issue an Order requiring Defendants to immediately prove the compliance with all pertinent zoning and land use laws and, if not in compliance, to become compliant immediately,

(e) Issue an Order requiring Defendants DEP and Mt. Pleasant to produce the following information regulatory, operating, and safety data and information

- 1 Comprehensive listing of all chemicals used by Defendants in their fracturing and gas drilling process, including but not limited to acrylonitrile and other volatile organic compounds (VOCs);
- 2 Any and all engineering and dispersion modeling (water and wind),
- 3 Any and all documents setting forth fracking and gas drilling process,
- 4 Any and all documents setting forth risks and benefits of fracturing and gas drilling process,
5. Any and all documents relating to Defendant Range Resources drilling activities and installation of Stewart Well # 8 (September 2007), located 1000 feet from Plaintiffs' property, and others including the Stewart Well # 1, # 4, and # 6, also surrounding Plaintiffs' property,
- 6 Any and all monitoring and/or testing of above gas wells on water supply,
- 7 Any and all impact, environmental, exposure, and/or health assessment studies,
- 8 Any and all DEP reporting, violations, fines, notices;
- 9 Any and all documents pertaining to the Bricklemeyer's Complaint to the DEP regarding contamination of the water supply by Stewart Well # 8,

- 10 Any other complaints of water, air, and soil contamination,
- 11 A comprehensive listing of all unauthorized releases (i.e. noxious gas,
hazardous substances) by Defendants and known valve malfunctions,
including but not limited to June 28, 2009, October 20, 2009,
December 9, 2009, April 16, 2010, and as recently as of August 3,
2010,
- 12 Any and all monitoring and/or testing of above noxious gas releases,
- 13 Any and all impact, environmental, exposure, and/or health assessment
studies of such noxious gas releases,
- 14 Any and all DEP reporting, violations, fines, notices of such noxious
gas releases,
- 15 Any and all DEP permitting, consent decrees, and regulatory docs,
- 16 Any and all DEP monitoring and/or testing of above noxious gas
releases,
- 17 Any and all DEP impact, environmental, exposure, and/or health
assessment studies of such noxious gas releases,
- 18 Any and all DEP reporting, violations, fines, notices of such noxious
gas releases,

(f) Award all compensatory damages suffered by Plaintiffs in an amount that fairly compensates them for their aforesaid damages and losses including, but not limited to, the personal injuries they suffered and continue to suffer, and the diminution of their property value, together with interest, attorney fees and costs,

(g) Award punitive damages to Plaintiffs;

(h) Award response costs, pursuant to HSCA, to compensate Plaintiffs for environmental studies and health risk studies, as well as to compensate them for any future response costs, including whatever additional remediation is needed to their property to return it to a pre-contamination condition,

(i) Allow Plaintiffs' environmental engineering experts, at Defendants' expense, to immediately inspect and evaluate Defendants' respective plants and facilities for compliance with all pertinent environmental laws,

(j) Appoint an independent environmental consultant to inspect Defendants' plants and facilities, issue a report on their deficiencies, and to assure that the appropriate corrections are instituted to safeguard the Plaintiffs from the aforesaid harmful emissions, particulates, and releases, and waste deposition caused by said plants and facilities at Defendants' expense;

(k) Award Plaintiffs costs and reasonable attorney fees to their attorneys, and,

(l) Award Plaintiffs such other and further relief as the Court deems just and equitable under the circumstances

Respectfully submitted,

VILLARI, BRANDES & KLINE, P C

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Attys for Plaintiffs

MARCH 10, 2011

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand that a trial of all issues be heard by a Judge sitting with jury

Respectfully submitted,

VILLARI, BRANDES & KLINE, P C

BY _____

Peter M Villari, Esquire

Paul D Brandes, Esquire

Attorney I D # 26875, 59769

161 Washington Street,

8 Tower Bridge, Suite 400

Conshohocken, PA 19428

Tele 610-729-2900

Fax 610-729-2910

Attys for Plaintiffs

MARCH 10, 2011

• •

EXHIBIT
B
(FILED
UNDER
SEAL)

EXHIBIT C

VILLARI, BRANDES & KLINE, P.C.

By: Peter M. Villari, Esquire

Attorney I D Nos : 26875

8 Tower Bridge, Suite 400

161 Washington Street

Conshohocken, PA 19428

610-729-2900

Attorneys for Plaintiffs

**IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY,
PENNSYLVANIA
PREMISES LIABILITY ACTION – CIVIL CASE**

STEPHANIE HALLOWICH AND)

CHRIS HALLOWICH, H/W,)

Plaintiffs,)

v)

RANGE RESOURCES CORPORATION;)

WILLIAMS GAS/LAUREL MOUNTAIN)

MIDSTREAM, MARKWEST ENERGY)

PARTNERS, L.P.; MARKWEST)

ENERGY GROUP, L L C ; and)

PENNSYLVANIA DEPARTMENT OF)

ENVIRONMENTAL PROTECTION,)

Defendants)

CIVIL ACTION

Docket No. 2010-3954

PLAINTIFFS' AFFIDAVIT

Plaintiffs, Stephanie and Chris Hallowich, hereby submit the following affidavit
and attest that:

1 With respect to Plaintiff minors' alleged claims involve nuisance and
personal injury claims, there is presently no medical evidence that these symptoms are
definitively related to any exposure to the activities of Defendants set forth in Plaintiffs'

2 The minors have alleged claims for nuisance and personal injury in connection with Defendants' business operations. There is presently no medical evidence supporting that these claims are related to any exposure to Defendants' business operations as set forth in Plaintiffs' Complaint. See Exhibit A. And presently, the minors are healthy and have no symptoms that may allegedly be related to Defendants' business operations

3. Based upon the facts and circumstances of the case and on behalf of our minor children, we believe and certify that the proposed settlement, as set forth in the Petition, is reasonable and fair.

BY Stephanie Hallowich
Stephanie Hallowich

Date: 7/25/11

BY Chris Hallowich
Chris Hallowich

Date: 7/25/11

VILLARI, BRANDES & KLINE, P.C.

BY Peter M. Villari, Esquire

Attorney I.D. #26875

8 Tower Bridge

161 Washington Street, 4th Floor

Conshohocken, PA 19428

(610) 729-2900 Ph

Attorneys for Plaintiffs

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PA
PREMISES LIABILITY ACTION - CIVIL CASE

STEPHANIE HALLOWICH AND

CHRIS HALLOWICH, H/W

179 Avella Road

Hickory, PA 15340

Plaintiffs

DOCKET NO 2010-3954

MAY TERM, 2010

JURY TRIAL DEMANDED

v.

RANGE RESOURCES CORPORATION, et al.

380 Southpointe Boulevard

Canonsburg, PA 15317

CERTIFICATE OF SERVICE

Peter M Villari, Esquire, hereby certifies that a copy of Plaintiffs' Petition for Approval of Settlement of Minors' Actions, was served upon the following this 27th day of July 2011, via first class mail:

Gail A. Myers, Esquire
Office of Chief Counsel
400 Waterfront Drive
Pittsburgh, PA 15222-4745

Kathy K. Condo, Esquire
Babst, Calland, Clements & Zomnir, P.C
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222

FILED

JUL 28 2011

PR. MATHENY
PROTHONOTARY

Erin Windle McDowell, Esquire
Eckert SeamansChern & Mellott LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219

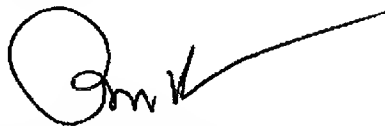
Richard Hosking, Esquire
James C. Swetz, Esquire
K&L Gates
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222-2613

Respectfully submitted,

Date

7/27/11

By:

A handwritten signature in black ink, appearing to read 'P. Villari', with a long horizontal stroke extending to the right.

Peter M. Villari, Esquire
Attorney for Plaintiffs

PROPOSED ORDER

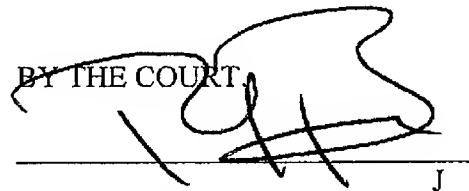
IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY,
PENNSYLVANIA
PREMISES LIABILITY ACTION – CIVIL CASE

STEPHANIE HALLOWICH AND CHRIS)	CIVIL ACTION
HALLOWICH, H/W,)	
)	
Plaintiffs,)	
)	Docket No 2010-3954
v)	
)	
RANGE RESOURCES CORPORATION,)	
WILLIAMS GAS/LAUREL MOUNTAIN)	
MIDSTREAM, MARKWEST ENERGY)	
PARTNERS, L P , MARKWEST)	
ENERGY GROUP, L L C , and)	
PENNSYLVANIA DEPARTMENT OF)	
ENVIRONMENTAL PROTECTION,)	
)	
Defendants.)	

[PROPOSED] SCHEDULING ORDER

AND NOW, this 11TH day of AUGUST, 2011, upon consideration of the Joint Motion for Scheduling Order, this Court hereby schedules a hearing in closed court or in chambers on (i) Plaintiffs' Petition for Approval of Settlement of Minors' Actions Pursuant to Pa R.C.P. 2039 and Local Rule 2039.1 and (ii) the Joint Motion to file Petition for Approval of Settlement of Minors' Actions Under Seal for Wednesday, August 24, 2011, or as soon thereafter as suits the convenience of the Court.

BY THE COURT



HEARING TO BE HEARD August 26, 2011
AT 11:00 a.m.

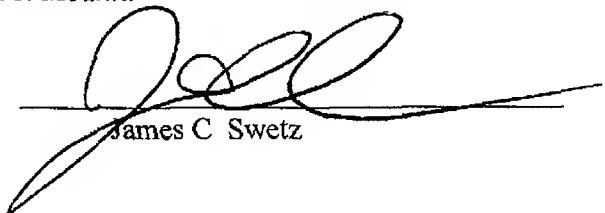
CERTIFICATE OF SERVICE

I, James C Swetz, hereby certify on this 11th day of August, 2011, that a true and correct copy of the foregoing **JOINT MOTION FOR SCHEDULING ORDER** was served on the following counsel by electronic mail and first class United States Mail, postage pre-paid

Peter M. Villari, Esquire
Robert N Wilkey, Esquire
VILLARI, BRANDES & KLINE, P C
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428
Attorneys for Plaintiffs Stephanie Hallowich and Chris Hallowich

Erin W. McDowell, Esquire
ECKERT SEAMANS CHERIN & MELLOTT, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
Attorneys for Defendant Range Resources-Appalachia, LLC

Kathy Condo, Esquire
BABST CALLAND CLEMENTS & ZOMINIR, PC
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222
Attorneys for Defendants Williams Field Services Company, LLC and Laurel Mounta


James C Swetz

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W

Plaintiff,

vs

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P., MARKWEST ENERGY
GROUP, L L C., AND PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

Defendant.

No. 2010-3954

[Handwritten signature]
PROCLAMATION
MAY 11 11 2011

2011 AUG 23 PM 12:20

[Handwritten initials]

Order

AND NOW, on this 23rd day of August, 2011, upon consideration of the Joint Motion to File Petition for Approval of Minors' Actions Under Seal, and the Confidential Agreement attached thereto, it is hereby **ORDERED** that said Motion is **GRANTED** and that the file under case number 2010-3954 be **SEALED** indefinitely in its entirety.

BY THE COURT

[Handwritten signature]
J. Paul Pozonsky

MAILED 8-23-11

TO _____

J Swetz - *[Signature]*

E McDowell - *[Signature]*

VILLARI, BRANDES & KLINE, P.C.

By Peter M. Villari, Esquire
Attorney I.D. Nos. 26875
8 Tower Bridge, Suite 400
161 Washington Street
Conshohocken, PA 19428
610-729-2900

Attorneys for Plaintiffs

**IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY,
PENNSYLVANIA
PREMISES LIABILITY ACTION – CIVIL CASE**

STEPHANIE HALLOWICH AND CHRIS)
HALLOWICH, H/W,)

Plaintiffs,)

v.)

RANGE RESOURCES CORPORATION,)
WILLIAMS GAS/LAUREL MOUNTAIN)
MIDSTREAM; MARK WEST ENERGY)
PARTNERS, L.P., MARK WEST)
ENERGY GROUP, L.L.C., and)
PENNSYLVANIA DEPARTMENT OF)
ENVIRONMENTAL PROTECTION,)

Defendants)

CIVIL ACTION

Docket No 2010-3954

PROTESTANT
NOTARY
PUBLIC
JULY 1, 2011

2011 AUG 23 PM 12:21

AA
F-11-11

ORDER

AND NOW, this 23rd day of August, 2011, upon consideration

of Plaintiffs' Petition for Approval of Settlement of Minors' Actions pursuant to Pa R C P
2039 and Local Rule 2039 I, the Court having reviewed the Petition, supporting documents
and any response thereto, and for good cause having been shown, it is hereby ORDERED
and DECREED that the Petition is granted The global settlement in the amount of

\$750,000.00 in the amount of \$750,000 00 is approved The allocation and distribution of settlement proceeds shall be as follows.

- | | | |
|-----|---|---------------|
| (a) | To Villari, Brandes & Kline, P.C
Reimbursement for Costs | \$ 5179.63 |
| (b) | To: Villari, Brandes & Kline, P.C
Counsel Fee | \$ 150,000 00 |
| (c) | To: Stephanie and Chris Hallowich | \$ 594,820 37 |

BY THE COURT:



J.

ENTRY OF OPINION, ORDER DECREES
ADJUDICATION OR JUDGMENT FILED 8-23-11
MAILED 8-23-11

TO _____

E McDowell *E McDowell*
J Swartz - *J Swartz*

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH. H/W

Plaintiff,

vs

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P., MARKWEST ENERGY
GROUP, L.L.C., AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendant.

No. C-63-CV-201003954

**PG PUBLISHING COMPANY'S
PETITION TO INTERVENE AND
MOTION TO UNSEAL RECORD**

Filed on behalf of Intervenor:
PG Publishing Company d/b/a
The Pittsburgh Post-Gazette

Counsel of Record for this Party:

FREDERICK N FRANK, Esquire
Pa. I.D. #10395

FRANK, GALE, BAILS, MURCKO
& POCRASS, P.C
Firm I.D. No. 892
33rd Floor, Gulf Tower
707 Grant Street
Pittsburgh, PA 15219

(412) 471-5912

2011 SEP -6 AM 10:02

FILED BY



IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W,

Plaintiffs,

vs

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P., MARKWEST ENERGY
GROUP, L.L.C., AND PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

Defendant

No C-63-CV-201003954

NOTICE OF PRESENTATION

TO:

Gail A. Myers, Esquire
400 Waterfront Dr
Pittsburgh, PA 15222
(Counsel for Pennsylvania Department of
Environmental Protection)

Erin Windle McDowell, Esquire
44th Floor, 600 Grant Street
Pittsburgh, PA 15219
(Counsel for Markwest Energy Partners L.P. &
Markwest Energy Group, L.L.C.)

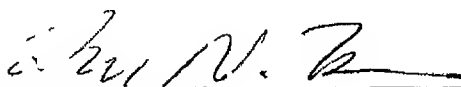
Kathy K. Condo-Caritis, Esquire
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222
(Counsel for Williams Gas/Laurel Mountain
Midstream)

James C. Swetz, Esquire
K & L Gates, L.L.P.
K & L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222
(Counsel for Range Resources Corporation)

Peter Villari, Esquire
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428
(Counsel for Plaintiffs)

KINDLY TAKE NOTICE that the within PG's Publishing Company's Petition to
Intervene and Motion to Unseal Record will be presented to the Honorable Paul Pozonsky on

the 6th day of September, 2011 at 9 15 a.m. in courtroom no. 5, Washington County Courthouse
1 South Main Street, Washington, PA 15301



Frederick N Frank
Attorney for Intervenor

CERTIFICATE OF SERVICE

I, Frederick N Frank, Esquire, hereby certify that a true and correct copy of the foregoing
PETITION TO INTERVENE AND MOTION TO UNSEAL RECORD was served upon the
following, this 31st day of August, 2011, via facsimile:

The Honorable Paul Pozonsky
Washington County Courthouse 1 South Main Street
Suite 1004
Washington, PA 15301

Gail A Myers, Esquire
400 Waterfront Dr
Pittsburgh, PA 15222
(Counsel for Pennsylvania Department of Environmental Protection)

Erin Windle McDowell, Esquire
44th Floor, 600 Grant Street
Pittsburgh, PA 15219
(Counsel for Markwest Energy Partners L.P. & Markwest Energy Group, L L C.)

Kathy K Condo-Caritis, Esquire
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222
(Counsel for Williams Gas/Laurel Mountain Midstream)

James C. Swetz, Esquire
K & L Gates, L.L P
K & L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222
(Counsel for Range Resources Corporation)

Peter Villari, Esquire
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428
(Counsel for Plaintiffs)

A handwritten signature in cursive script, appearing to read "Frederick N. Frank".

Frederick N. Frank, Esquire
Attorney for Intervenor

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W,

Plaintiffs,

vs

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L.L C , AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendant

No C-63-CV-201003954

**PG PUBLISHING COMPANY'S PETITION TO INTERVENE
AND MOTION TO UNSEAL RECORD**

AND NOW, Intervenor, PG Publishing Company d/b/a The Pittsburgh Post-Gazette, by and through its undersigned counsel, Frederick N Frank, Esquire and Frank, Gale, Bails, Murcko & Pocrass, P C., hereby moves this Honorable Court for an order granting the Intervenor's Petition to Intervene and Motion to Unseal Record in the above-captioned case. In support thereof, the Intervenor states as follows:

1 PG Publishing Company is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania having a regular place of business at 34 Boulevard of the Allies, Pittsburgh, PA 15222

2. PG Publishing Company is the publisher of the Pittsburgh Post-Gazette ("Post-Gazette"), a newspaper of general circulation in Western Pennsylvania.

3. The Post-Gazette learned that a civil complaint had been filed in the above-captioned case based upon various media coverage. This included a July 29, 2010 article titled "Wells of wealth -- or woe? Questions waft from Marcellus Shale drilling sites" by the Post-Gazette, in which the Plaintiffs Stephanie and Chris Hallowich provide quotes and discuss the instant case before this Court

4. By Order of Court dated August 23, 2011, this Court granted a Joint Motion to File Petition for Approval of Minors' Actions Under Seal and sealed the record under case number 2010-3954 "indefinitely in its entirety." A true and correct copy of the August 23, 2011 Order of Court is attached hereto as Exhibit "A"

5. The Post-Gazette, as a member of the news media, a member of the public of the Commonwealth of Pennsylvania, and a representative of the public of the Commonwealth of Pennsylvania, seeks to intervene in this matter to assert its right of access to the public judicial documents contained in the record

6 The Pennsylvania Constitution supports the principle of open judicial proceedings "All courts shall be open." Pa Const Art I, § 11 Furthermore, case law has supported this principle as well See, e.g., *Hutchinson by Hutchinson v Luddy*, 611 A 2d 1280 (Pa Super. 1992)

7. The tradition of keeping proceedings and records of civil proceedings open to public observation is founded in common law right, and as stated in *Publicker Industries v Cohen*, 733 F 2d 1059, 1071 (3rd Cir. 1984), "[it is] clear that the public and the press possess a First Amendment and a common law right of access to civil proceedings; indeed there is a presumption that these proceedings will be open "

8. The filing of a petition to intervene in order to open proceedings by the news media, in a civil trial, is an appropriate means of raising assertions of public rights of access. See *Hutchinson by Hutchinson*, 611 A.2d at 1284.

9. In determining whether the record in a civil proceeding should be sealed, the Superior Court has adopted the standards set forth by the Third Circuit in *Publcker Industries*. See *Hutchinson by Hutchinson*, 611 A.2d at 1290, 1291.

10. Under *Publcker Industries*, a trial court must satisfy certain procedural and substantive requirements before it can deny access to civil proceedings. *Publcker Industries*, 733 F.2d at 1071.

11. Procedurally, a trial court, before closing a proceeding, must afford the representatives of the media objecting to closure a full opportunity to be heard with their counsel present. If it decides to order closure, the trial court then must both articulate the countervailing interest it seeks to protect and make findings specific enough that a reviewing court can determine whether the closure order was properly entered. *Publcker Industries*, 733 F.2d at 1071-72.

12. In *Publcker Industries*, the reviewing court reversed and remanded a trial court order sealing the record because the trial court failed to articulate the reasons explaining the sealing of the record, stating, "Here, the [trial court's] conclusion could be predicated on either a valid rationale or an invalid rationale, and we cannot assume that its final conclusions were necessarily based on the valid rationale." *Id.* at 1073.

13. In case at hand, on the date the August 23, 2011 Order of Court was entered into by this Court, reporters for the Post-Gazette, Don Hopey and Dave Templeton, were present in the courtroom at the start of the hearing on the Joint Motion to File Petition for Approval of Minors' Actions Under Seal. Upon noticing members of the media in the courtroom, the Court removed all

parties and their counsel to his chambers and closed the proceeding to the Post-Gazette's reporters, and all members of the public who had a valid right to be present in the courtroom

14. Following the removal of the parties and their counsel to chambers, reporters for the Post-Gazette objected to the Court's closure of the proceeding to a court official and asked for their objection to be formally put on the record. The court official, without allowing the Post-Gazette's objection to be heard by the trial judge, stated that the objection would be noted on the record

15 Then, without allowing the Post-Gazette the opportunity to be heard, the Court sealed the record by Order of Court dated August 23, 2011, without a hearing to determine if a countervailing interest exists and without articulating the countervailing interest it was attempting to protect.

16 In *Publicker Industries*, the Court held that the sealing of pleadings and trial proceedings may be warranted only when either, an important governmental interest is at stake and there is no less restrictive way to serve that governmental interest or that a clearly defined and serious injury would have occurred to the motioning party if the record were not sealed, such as the disclosure of a trade secret. *Publicker Industries*, 733 F 2d at 1070, 1071.

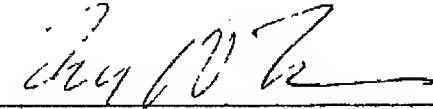
17 Thus, it is clear that the party seeking to close the record has the burden of proving that they will suffer a clearly defined and serious injury if the record were not sealed.

18. The Post-Gazette therefore requests that their request to intervene be granted and a hearing on the Post-Gazette's Motion to Unseal Record be scheduled before this Court, with all parties seeking sealing of the record required to submit an answer no later than 20 days before the scheduled hearing setting forth their basis for seeking sealing of the record.

WHEREFORE, the Intervenor respectfully requests that this Honorable Court grant the relief requested in this petition and enter the attached order

Respectfully submitted,

By:

A handwritten signature in dark ink, appearing to read 'F. N. Frank', written over a horizontal line.

Frederick N. Frank, Esquire
Attorneys for Intervenor

EK

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W

Plamttiff,

vs

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P., MARKWEST ENERGY
GROUP, L.L.C, AND PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

Defendant

No 2010-3954

PROFICIONOTARY
WASHINGTON CO PA

2011 AUG 23 PM 12:20

FILED

Order

AND NOW, on this 23rd day of August, 2011, upon consideration of the Joint Motion to File Petition for Approval of Minors' Actions Under Seal, and the Confidential Agreement attached thereto, it is hereby **ORDERED** that said Motion is **GRANTED** and that the file under case number 2010-3954 be **SEALED** indefinitely in its entirety

BY THE COURT.

J Paul Pozonsky



VERIFICATION

I, Don Hopey, a reporter for the Pittsburgh Post-Gazette, verify that I am authorized to execute this verification upon behalf of the Pittsburgh Post-Gazette and that the statements made in the within Petition to Intervene and Motion to Unseal Records are true and correct I understand that false statements herein are made subject to the penalties of 18 Pa C S §4904 relating to unsworn falsification to authorities

8/30/11
Date

Don Hopey
Don Hopey

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W,

Plaintiffs,

vs.

No C-63-CV-201003954

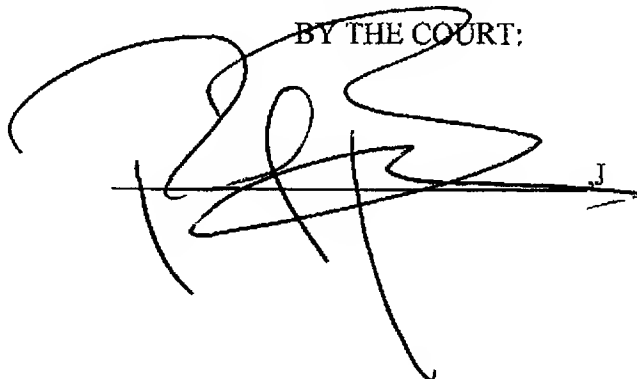
RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P, MARKWEST ENERGY
GROUP, L L C., AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendant.

ORDER OF COURT

NOW, to wit, this 6th day of September, 2011, after consideration of the PG Publishing Company's Petition to Intervene and Motion to Unseal Records, it is hereby ORDERED, ADJUDGED and DECREED that ~~the PG Publishing Company ("Intervenor") is permitted to intervene and a hearing shall be held on the PG Publishing Company's Motion to Unseal Records on the~~ 4th day of October, 2011 at 11:00 A M ~~P M~~ before The Honorable Paul Pozonsky. Twenty days prior to said hearing, all parties seeking to seal the record in the above-captioned case shall serve on all other parties, including the Intervenor, and the Court an answer to Intervenor's motion setting forth the basis in law and fact why the record should be sealed

BY THE COURT:



IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH and
CHRIS HALLOWICH, H/W,

Plaintiffs

v

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARK WEST ENERGY
PARTNERS, L.P , and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

No 2010-3954

PETITION TO INTERVENE AND
JOINDER IN PG PUBLISHING
COMPANY'S MOTION TO UNSEAL
RECORD

Filed on behalf of Observer Publishing
Company d/b/a Observer Reporter

Counsel of Record for this Party
MARRINER, JONES & FITCH
800 Washington Trust Building
30 East Beau Street
Washington, PA 15301
(724) 225-6600

Colm E. Fitch, Esquire
PA ID #56710

2011 SEP 13 PM 2:39
PHOTO COPY

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH and
CHRIS HALLOWICH, H/W,

Plaintiff

v.

No 2010-3954

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, LLC and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

NOTICE OF PRESENTATION

YOU ARE HEREBY NOTIFIED that the Observer Publishing Company d/b/a Observer Reporter, intends to present the within Petition to Intervene and Joinder in PG Publishing Company's Motion to Unseal Record on Monday, September 19, 2011, at 9 15 a.m in Courtroom No 5 before the Honorable Paul Pozonsky.

MARRINER, JONES & FITCH

DATE September 13, 2011

BY:


Colin E Fitch

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH and
CHRIS HALLOWICH, H/W,

Plaintiff

v

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P , MARKWEST ENERGY
GROUP, LLC and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

No. 2010-3954

ORDER

AND NOW, this ____ day of _____, 2011, upon consideration of Observer Publishing Company's Petition to Intervene and Joinder in PG Publishing Company's Motion to Unseal Record, it is hereby ORDERED, ADJUDGED and DECREED that argument and hearing on the Observer's Motion to Intervene and Joinder in Motion to Unseal Record shall be held on the 4th day of October, 2011, at 11 00 a m before the undersigned.

BY THE COURT.

Paul Pozonsky, J

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH and
CHRIS HALLOWICH, H/W,

Plaintiff

v

No. 2010-3954

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P., MARKWEST ENERGY
GROUP, LLC and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

**PETITION TO INTERVENE AND JOINDER
IN PG PUBLISHING COMPANY'S MOTION TO UNSEAL RECORD**

AND NOW, comes the Observer Publishing Company d/b/a Observer Reporter, by its attorneys, Marriner, Jones & Fitch, and petitions the court as follows

1. Observer Publishing Company ("Observer") is a Pennsylvania corporation with a regular place of business at 122 South Main Street, Washington, Pennsylvania 15301

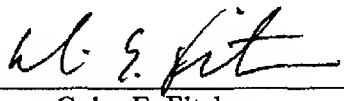
2. Observer is the publisher of the *Observer Reporter*, a daily newspaper of general circulation in Washington and Greene Counties

3. Observer, as a member of the news media and public, seeks to intervene in this matter to assert its right of access to the public judicial documents contained in the record of this case

4 In support of this Petition to Intervene and Motion to Unseal Record in this case, Observer incorporates herein by reference Paragraphs 6 through 15 of the Petition to Intervene and Motion to Unseal Record filed by PG Publishing Company on September 6, 2011

WHEREFORE, Observer requests that it be granted status as an Intervenor and that the record be unsealed for public inspection

MARRINER, JONES & FITCH

BY 
Colin E. Fitch

Clients \1496 282\PetitiontoIntervene.doc

VERIFICATION

The undersigned hereby verifies that the statements contained in the foregoing **PETITION TO INTERVENE AND JOINDER IN PG PUBLISHING COMPANY'S MOTION TO UNSEAL RECORD** are true and correct to the best of her knowledge, information and belief This verification is made subject to the penalties of 18 Pa. C.S. '4904 relating to unsworn falsification to authorities.

OBSERVER PUBLISHING COMPANY
d/b/a Observer Reporter

Date 9-13-11

BY Elizabeth Rogers
Elizabeth Rogers, Editor

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within **PETITION TO INTERVENE AND JOINDER IN PG PUBLISHING COMPANY'S MOTION TO UNSEAL RECORD** was served upon the following by first-class United States mail on the 13th day of September, 2011:

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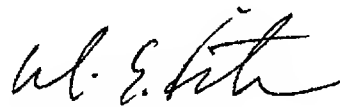
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Colin E. Fitch

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

STEPHANIE HALLOWICH AND CHRIS
HALLOWICH, H/W,

Plaintiffs,

v.

RANGE RESOURCES CORPORATION;
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM; MARK WEST ENERGY
PARTNERS, L.P.; MARKWEST ENERGY
GROUP, L.L.C.; and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants.

Docket No 2010-3954

**DEFENDANTS' JOINT BRIEF IN
OPPOSITION TO PG PUBLISHING
COMPANY'S AND THE OBSERVER
PUBLISHING COMPANY'S
PETITION TO INTERVENE AND
MOTION TO UNSEAL RECORD**

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¹ Plaintiffs mistakenly named parent Range Resources Corporation in this action, as do the petitioners in their Petition to Intervene and Motion to Unseal. However, Range Resources-Appalachia, LLC, a subsidiary of Range Resources Corporation, operates in Washington County, Pennsylvania, not its parent, Range Resources Corporation.

I. INTRODUCTION

On May 27, 2011, Plaintiffs and Defendants in the above-captioned matter agreed to a confidential settlement. As Plaintiffs' minor children were bound by the agreement, Plaintiffs filed a Petition for Approval of Settlement of Minors' Actions Pursuant to Pa. R.C.P. 2039 and Local Rule 2039.1 ("Orphans' Court Petition"). The Orphan's Court Petition sets forth various provisions of the parties' agreement, which the parties had agreed would be kept confidential. Accordingly, the parties filed a Joint Motion to File Petition for Approval of Settlement of Minors' Actions Under Seal ("Joint Motion to Seal"). The Court thereafter granted the Orphans' Court Petition and Joint Motion to Seal.² This matter has now been resolved, Plaintiffs' claims have been dismissed, and the case has been marked closed. It is clear that, but for the involvement of minors in this lawsuit, no aspect of the confidential settlement agreement would ever have been filed with the Court, and the case would have been voluntarily dismissed by Plaintiffs. Furthermore, Defendants would not have entered into the settlement agreement without the confidentiality provision and therefore, absent this provision which was agreed to by Plaintiffs, the settlement would not have been effected.

Nevertheless, two newspapers, PG Publishing Company, d/b/a The Pittsburgh Post-Gazette ("PPG") and the Observer Publishing Company, d/b/a The Observer Reporter ("the Observer") (collectively, "Petitioners") have now filed a Petition to Intervene and Motion to

² The Court initially sealed the entire record in the case after the August 23, 2011 hearing. The parties have now agreed that the seal may be lifted as to all filings in the case except the Orphans' Court Petition. The Orphans' Court Petition was filed twice in this case – once initially on July 28, 2011 and once as Exhibit B to the parties' Joint Motion for a Scheduling Order which requested a closed hearing on the Orphans' Court Petition and Joint Motion to Seal. Thus, the agreement of the parties to amend the Court's prior order sealing the docket will not disturb the seal as to these two filings, as these are the only two filings that contain confidential information.

Unseal Record requesting a hearing on the legal and factual basis for sealing the record as to the Orphans' Court Petition. Petitioners apparently contend that the involvement of a minor automatically makes otherwise confidential settlement terms public information, based on a "right of access" to all documents filed with the Court. They are, of course, incorrect.

As set forth below, this argument lacks any legal basis. Moreover, as a practical matter, Plaintiffs' position would render all confidential settlement information filed with the Orphans' Court public whenever a minor is involved in a settlement. Litigants, including minor children, who choose to settle disputes and include confidentiality terms must be able to rely on confidentiality provisions in their settlement agreements to prevent unwanted scrutiny and harassment. Indeed, otherwise, litigants would be stripped of their ability to privately settle their claims in a confidential manner. This interest outweighs any interest Petitioners have in making public the terms of the parties' private, out-of-court settlement agreement.

Accordingly, for these reasons and those set forth more fully below, the Court should deny Petitioners' request to unseal the Orphans' Court Petition.

II. STATEMENT OF FACTS

On May 27, 2010, plaintiffs Stephanie and Chris Hallowich ("the Hallowichs") commenced the above-captioned action by filing a Praecipe for Writ of Summons.

On November 18, 2011, this Court denied the Hallowichs' attempt to obtain pre-complaint discovery pursuant to Rule 4003.8 of the Pennsylvania Rules of Civil Procedure. On March 10, 2011, after initial settlement discussions were unsuccessful, counsel for the Hallowichs stated via e-mail that he intended to file a complaint with similar allegations in federal district court on behalf of the Hallowichs *and* to add the Hallowichs' minor children as plaintiffs. No complaint was ever filed in state or federal court.

In late June of 2011, and after extensive confidential settlement negotiations and the exchange of numerous drafts of a proposed settlement agreement between the parties, adult plaintiffs Stephanie and Chris Hallowich and their minor children, (collectively "Plaintiffs") and Defendants executed a settlement agreement containing a mutual release of claims. Pursuant to the settlement agreement, Plaintiffs released Defendants from all existing and potential claims, including those of the minor children, and voluntarily discontinued the above-captioned action. The settlement agreement contains express confidentiality provisions, collaboratively drafted and consented-to by both parties, which are designed to protect Plaintiffs' and Defendants' interest in preventing public disclosure of the terms of their private agreement to resolve this case.

The parties acknowledged and agreed that, as part of the overall settlement, certain claims of Plaintiffs' minor children would also require Court approval under Pennsylvania Orphans' Court Rules. Accordingly, the parties consented to, and the Hallowichs filed on behalf of their minor children, the Orphans' Court Petition on July 28, 2011.³ This Petition outlined various confidential provisions of the settlement agreement, including, among other things, the amount that each Plaintiff and Plaintiffs' minors would receive from the Defendants in consideration for the settlement, and the distribution of attorneys' fees and costs from these amounts. Accordingly, on that same date, the parties filed a Joint Motion to Seal to prevent public disclosure of these private settlement terms.

On August 23, 2011, the Honorable Judge Pozonsky held a hearing on the Orphans' Court Petition and Joint Motion to Seal, at which the adult Plaintiffs, their minor children, counsel for Plaintiffs, and two of the Defendants were present. At the beginning of the hearing, a

³ Pa. R.C.P. 2039 provides that "[n]o action to which a minor is a party shall be compromised, settled or discontinued except after approval by the court pursuant to a petition presented by the guardian of the minor."

court official noticed that two reporters for PPG were present in the courtroom. Accordingly, Judge Pozonsky stated the confidential nature of the hearing on the Orphans' Court Petition and Joint Motion to Seal, as jointly requested by the parties, and moved the proceeding to his chambers. After holding a hearing in chambers and confirming that the parties, and particularly the guardians of the minor children, consented to the Orphans' Court Petition and to sealing the record in accordance with the settlement agreement's confidentiality provisions, Judge Pozonsky granted the Orphans' Court Petition and the Joint Motion, thereby approving the settlement as to the minors' claims and ensuring the confidentiality of the settlement agreement and all related filings.

Before the hearing was commenced in Judge Pozonsky's chambers, the two PPG reporters attempted to follow the parties into chambers, but were told by a court official that they could not be present because the parties had agreed that the hearing would be confidential. On August 31, 2011, PPG filed a Petition to Intervene and Motion to Unseal Record. On September 13, 2011, a second Petitioner, Observer Publishing Company, d/b/a The Observer Reporter ("the Observer"), filed a joinder in PPG's Petition to Intervene and Motion to Unseal Record which incorporates by reference PPG's filing.⁴ This Brief in Opposition addresses both of these Petitions and Motions to Unseal.

⁴ Defendants do not know whether any reporters from the Observer were present or voiced any objection on the day of the hearing.

III. ARGUMENT

The Court should deny the Petition to Intervene and Motion to Unseal, and ensure that litigants, including minors, may enter confidential settlement agreements and obtain Orphans' Court approval without public disclosure of confidential settlement information

A. Governing Legal Standards

"Every court has supervisory powers over civil proceedings in progress before it and may deny access where such access may become a vehicle for harmful or improper purposes." *Katz v Katz*, 514 A.2d 1374, 1377 (Pa. Super 1986)⁵ Accordingly, the decision of whether to seal or unseal a document filed in a judicial proceeding is committed to the sound discretion of the Court and will not be overturned absent an abuse of that discretion. *See Commonwealth v Upshur*, 924 A.2d 642, 651 (Pa. 2007) The Court must hold a hearing and place on the record its reasoning and the factors relied upon in reaching its decision. *Id.*

Here, in the context of approving the settlement as to the minors, the Court conducted a hearing in which it found that all parties had knowingly and voluntarily consented to the confidentiality provisions in the settlement agreement to protect their privacy interests. Based upon this conclusion, the Court sealed the Orphans' Court Petition. Accordingly, the Court properly exercised its discretion in approving the agreed-upon settlement as to the minor children

⁵ In addition, Pa. R. C. P. 223(4) provides that "the court may make and enforce rules and orders covering any of the following matters, *inter alia* . . . [r]egulating or excluding the public or persons not interested in the proceedings whenever the court deems such regulation or exclusion to be in the interest of the public good, order or morals."

B. The Court Should Deny The Petition To Intervene And Motion To Unseal, Because The Overriding Interest Of The Parties In The Confidentiality Of Their Settlement Agreement Outweighs Any Right Of Access To The Orphans' Court Petition

Pennsylvania recognizes a right of access to judicial documents.⁶ However, this right is not absolute. For instance, the Pennsylvania Superior Court has held that private information collected during discovery does *not* constitute a judicial record subject to public scrutiny. See *Stenger v Lehigh Valley Hosp Center*, 554 A 2d 954, 960-61 (Pa. Super. 1989). Moreover, a person is only entitled to a common law right of access to judicial records "provided that he has an interest therein for some useful purposes and not for *mere curiosity*." *Hutchinson by Hutchinson v Luddy*, 611 A 2d 1280, 1290 (Pa. Super. 1992) (citation omitted; emphasis added). Thus, to determine whether information filed with a court or conveyed during a hearing may be placed under seal and withheld from public view, a court must determine whether the interest in keeping the information private rebuts the presumption that the information be accessible to the public, such as in the case where disclosure of the information to be sealed would work an injury to parties in litigation. *Katz*, 514 A.2d at 1380 (holding that "closure is warranted where disclosure will work a clearly defined and serious injury to the party seeking closure") (internal quotations omitted).

Indeed, the right of access to documents under an order of confidentiality, if established, can be overcome by "overriding interests." *Publicker Ind, Inc v Cohen*, 733 F.2d 1059, 1073

⁶ Pennsylvania apparently recognizes both a constitutional and common law basis for this right. See *R.W. v W Hampe, MD*, 626 A 2d 1218, 1220 n 3 (Pa. Super. 1993). However, the constitutional and common law analyses are virtually identical, as both involve balancing the competing interests in privacy versus public disclosure of the information at issue. Accordingly, they are addressed concurrently here. However, Defendants reserve the right to demonstrate Petitioners' flawed reasoning under either line of analysis at oral argument or in subsequent briefing, if it pleases the Court.

(3d Cir. 1984) "The overriding interest can involve the content of the information at issue, the relationship of the parties, or the nature of the controversy" *Id.* For instance, "where there is a binding contractual obligation not to disclose certain information which to the court seems innocuous but newsworthy; in that situation unbridled disclosure of the nature of the controversy would deprive the litigant of his right to enforce a legal obligation" *Id.* at 1073-74.

Here, there is an overriding interest that trumps any right of access the press asserts to the confidential settlement agreement and related filings - namely, that a court ruling allowing press access to a settlement agreement whenever a minor is involved, despite confidentiality provisions in the agreement negotiated and agreed to by the parties, would destroy a litigant's right to privately contract for a settlement whenever Orphans' Court approval of that settlement is required. Certainly, a litigant's right to enter into a private and confidential settlement agreement outweighs PPG's "mere curiosity" in following up on a story.

Indeed, at least one trial court in this Commonwealth has expressly rejected what the PPG and Observer are attempting to do here - unseal a settlement agreement filed with a court to obtain Orphans' Court approval of a minors' settlement. In *Beaver v McColgan*, 11 Pa. D&C 4th 97 (Ct. Com. Pl. Columbia C'ty 1990), a trial court rejected a newspaper's attempt to unseal a settlement agreement filed to obtain approval as to a minors' settlement. The Court reasoned, among other things, that:

[I]t should be noted that if a minor *were not a party* to this action, the amicable settlement could have been reached *without the filing of any documents*. If a summons or pleading had been filed prior to settlement where no minor was involved, the case could have been discontinued by the parties without the filing of the settlement documents.

Id. at 102-103. The *Beaver* court also noted that confidentiality as to the terms of the settlement agreement was a "key ingredient" in its finalization and execution, and that the parties were

entitled to rely on those confidentiality provisions and comply with Orphans' Court requirements without compromising this confidentiality. *Id* at 102. Based on these findings, the court denied the newspaper's petition to unseal the settlement agreement

As in *Beaver*, confidentiality is a "key ingredient" of the settlement agreement reached by the parties. Also as in *Beaver*, the only reason that information contained in the settlement agreement was filed was due to the need to obtain Orphans' Court approval for the minors' settlement. As reasoned by the *Beaver* court, it would be absurd to render all confidentiality provisions in settlement agreements null and void to the extent a minor's claims are involved.

The interest in adult and minor litigants' ability to ensure the confidentiality of their settlement agreements clearly outweighs a newspaper's right of access to a settlement agreement when it happens to involve a minor. The Court should deny the PPG's and the Observer's Petition to Intervene and Motion to Unseal Record and maintain the confidentiality of the parties' settlement agreement resolving this case

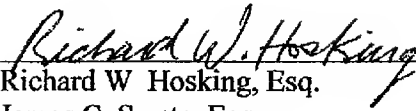
IV. CONCLUSION

As demonstrated above, litigants should be entitled to rely on confidentiality provisions in their settlement agreements *and* comply with Orphans' Court requirements for obtaining settlement approval as to minors when they happen to be involved in a case. Petitioners have failed to establish any cause, much less good cause, for the Court to reverse its previous order sealing the Orphans' Court Petition at the joint request of Plaintiffs and Defendants and in accordance with the confidentiality provisions in their settlement agreement. The mere presence of minors in a settlement does not give the public a right of access to an out-of-court settlement agreement that would otherwise have been kept confidential.

Based on the foregoing reasons, Defendants respectfully request that the Court deny the
Petition.

K&L GATES LLP

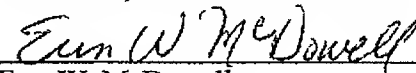
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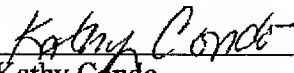
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Defendants' **Joint Brief in Opposition to PG Publishing Company's and The Observer Publishing Company's Petition to Intervene and Motion to Unseal** was served on the following individuals via United States mail this 19th day of September, 2011

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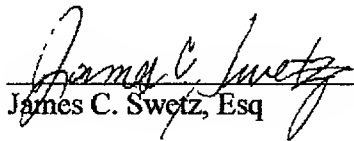
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IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH and
CHRIS HALLOWICH, H/W,

Plaintiff

v.

No 2010-3954

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P., MARKWEST ENERGY
GROUP, LLC and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

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ORDER

AND NOW, this 19th day of SEPTEMBER, 2011, upon consideration of Observer Publishing Company's Petition to Intervene and Joinder in PG Publishing Company's Motion to Unseal Record, it is hereby ORDERED, ADJUDGED and DECREED that argument and hearing on the Observer's Motion to Intervene and Joinder in Motion to Unseal Record shall be held on the 4th day of October, 2011, at 11 00 a m. before the undersigned.

BY THE COURT:

Paul Pozonsky, J

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W

Plaintiffs,

vs.

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L L C , AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendants

No C-63-CV-201003954

**INTERVENORS' JOINT BRIEF
IN SUPPORT OF PG PUBLISHING
COMPANY'S AND OBSERVER
PUBLISHING COMPANY'S PETITION
TO INTERVENE AND MOTION TO
UNSEAL RECORD**

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While no complaint was ever filed in this case, based upon the extensive publicity of this case discussed *infra*, it is apparent that the cause of action arose from claims by the Hallowichs that their property was damaged and personal well-being was affected by natural gas drilling by the Defendants at or near their residence

Even before the commencement of the litigation, the Hallowichs gave numerous media interviews regarding the impact of gas drilling on their family. These interviews, which continued throughout the litigation, highlight in particular the Hallowichs' two minor children, Nathan Hallowich and Alyson Hallowich (collectively "Children") Further, representatives of the Defendants discussed the case in the media, including extensive details of offers of settlement to the Hallowichs, and the Hallowichs similarly discussed their demands for resolution

A May 5, 2009 article from Reuters, titled "Gas drillers battle Pennsylvania pollution concerns," which includes a photograph of Stephanie Hallowich and the Hallowichs' daughter "Alison[sic]" taken on April 23, 2009, includes the following quote from Stephanie Hallowich "I don't want to find out in five years' time that my kids have cancer." A true and correct copy of the May 5, 2009 article from Reuters is attached herein as Exhibit "B "

Attached as Exhibit "C" is an August 27, 2009 article from the BBC News titled "U.S. seeks independence with natural gas" in which Stephanie Hallowich, who is described as being "surrounded by natural gas wells," states

- "“We've had problems with water, we've had air quality issues, there's an odour which has made us sick ””
- "“We have two children We have huge issues about their health ””

Attached as Exhibit "D" is a July 29, 2010 article from the Pittsburgh Post-Gazette titled "Wells of wealth – or woe? Questions waft from Marcellus Shale drilling sites" in which a photograph of the Hallowichs, alongside the Children, is displayed. The article further states:

- "Homeowners Stephanie and Chris Hallowich have traveled the state, talking to land owners and offering advice to those who are considering leasing their property for drilling."
- "The family is now in litigation with the state, drilling operators and processing companies over what they claim is contamination of their water well caused by the drilling and because of noxious fumes that prevent their children from playing outside most days."

Attached as Exhibit "E" is an article on the CBS News website based on a CBS Evening News report aired in September 2010, titled "A Burning Debate Over Natural Gas Drilling." The interview, conducted by Armen Keteyian, CBS News chief investigative correspondent, contained multiple shots of the Children playing on the Hallowichs' property, and includes a statement by Stephanie Hallowich that she is "very afraid, health-wise, for the kids, just because of the exposure to the water and the constant not-knowing what we're breathing in outside."¹

Attached as Exhibit "F" is an October 17, 2010 article from the National Geographic News titled "A Dream Dashed by the Rush on Gas" that extensively details the instant law suit between the Hallowichs and Range Resources over the alleged pollution of the Hallowichs' property. Both a representative of Range Resources and the Hallowichs were interviewed for the article. The reporting in the article includes the following:

¹ The video interview, which includes multiple shots of the Children, can be viewed at <http://www.cbsnews.com/stories/2010/09/04/eveningnews/main6835996.shtml>

- The Hallowichs' case is being studied as part of a larger study by the University of Pittsburgh and the University of Washington, Seattle, funded by the Heinz Endowments, on the impact of natural gas drilling on air pollution Exhibit "F," p 8.
- Matt Pitzarella, described as a "spokesman for Range Resources, the company that drilled the well that produces gas beneath the Hallowich site" was interviewed for the article Exhibit "F," p. 3
- Mr. Pitzarella and the Hallowichs discussed in detail the offers and demands to resolve the instant case as follows "Pitzarella says that Range has offered to buy the Hallowich property, while leaving them the mineral rights for around \$200,000 Pitzarella says the offer --which was made verbally, not in writing -- was based on a real estate agent's assessment of the fair market value of the property But the Hallowichs, who have put their house on the market for close to \$500,000, say they never received either a verbal or written offer from Range, although the company invited them to talk. They say that Range asked what they wanted; they replied that they wanted the company to buy their house, reimburse them for water, pay their legal fees, and create an escrow account for medical monitoring for the family." Exhibit "F," p 9
- The article also includes a photograph of the Hallowichs, alongside the Children, and quotes them as follows

- o “‘It’s ruined our lives That’s what it comes down to,’ says Chris [Hallowich] ‘It’s ruined our plans that we had for the kids It’s ruined what we thought was our perfect ten acres ’”
- o “[The Hallowichs] say they fear that they and their children, now 6 and 9, face health risks from both polluted drinking water and air ”

Attached as Exhibit “G” are various photographs and accompanying captions, in which the Children are prominently displayed, that were part of the National Geographic News’ series, “Special Report The Great Shale Gas Rush,” of which the article referenced in the above paragraph was a part The National Geographic News article also contained video, including commentary by the Hallowichs, over photographs of the Children, discussing the Children’s health issues ²

Attached as Exhibit “H”³ is a transcript of a March 1, 2011 video news report from, the Western Pennsylvania television station, WTAE Pittsburgh, titled “Explosion Reports Send Crews To Washington Co. Gas Well Site,” which includes an interview with Stephanie Hallowich The transcript contains the following

- “Hallowich said her family wants to move and, out of frustration at what they perceive as the health risk from [natural gas] drilling operations, carved the words ‘Gas Land’ into their yard ‘We had actually been away the last couple of days because the children have been having some health issues, which we believe is

² The video is posted and currently resides on the National Geographic New’s website at http://news.nationalgeographic.com/news/2010/10/photogalleries/101022-energy-gas-faces-shale-pictures/#/energy-shale-portrait02-hallowich_26860_600x450.jpg

³ All exhibits listed above are admissible under Rule 902 of the Pennsylvania Rules of Evidence

from some of the emissions coming out of these two places, with some pretty serious nose bleeds and headaches,' Hallowich said."⁴

Besides discussing in detail the health ailments, names and ages, and location of the Children's residence, the Hallowichs provided, or posed for, voluminous amounts of photographs and video recordings where the Children are prominently displayed. In addition, both the Hallowichs and the Defendant Range Resources discussed in exhaustive detail the intimate and essential details of the case, including previous financial settlement proposals, medical information, and alleged environmental and health-related violations by the Defendants.

As acknowledged in the Defendants' Joint Brief in Opposition, a settlement was executed in late June 2011 between the Hallowichs, the Hallowichs' Children (collectively "Plaintiffs"), and the Defendants. On July 28, 2011, the Petition for Approval of Settlement of Minors' Actions⁵ and the Joint Motion to Seal was filed by the Hallowichs. Upon consideration of these pleadings, the Court scheduled a hearing in closed court chambers for August 24, 2011.

On August 23, 2011,⁶ the Court held a hearing on the Petition for Approval of Settlement of Minors' Actions and the Joint Motion to Seal. Before the hearing commenced, upon noticing two reporters for the Post-Gazette in the courtroom, a court official proceeded into the Court's chambers and informed the Court of their presence. After doing so, the court official proceeded

⁴ The video can be viewed at <http://www.wtae.com/news/27035071/detail.html>

⁵ Throughout Defendants' Joint Brief in Opposition, Defendants characterizes the Petition for Approval of Settlement of Minors' Actions Pursuant to Pa.R.C.P. 2039 and Local Rule 2039.1 as an "Orphans' Court Petition," including the statement that the claims would require court approval under "Pennsylvania Orphans' Court Rules." It should be noted, that Defendants cite no Orphans' Court Rules which would apply, instead citing only Pa.R.C.P. 2039. Indeed, Pa.R.C.P. 2039 and Washington County Local Rule 2039.1 (listed as a local rule in the Civil Division) are not Orphans' Court Rules but Rules of Civil Procedure. See Pa.R.C.P. 2309 and Washington County Local Rule 2039.1. No Orphans' Court proceeding is at issue in the above-captioned matter.

⁶ The Post-Gazette is unaware of any order of court that re-scheduled the hearing for August 23, 2011, or any reason as to why the hearing was held on August 23, 2011.

back into the courtroom and informed the Plaintiffs, Plaintiffs' Attorneys, Defendants and Defendants' Attorneys to follow him into the Court's chambers.⁷

Contrary to the Defendants' assertions in the Defendants' Joint Brief in Opposition, the reporters for the Post-Gazette did not subsequently attempt to "follow the parties into chambers," rather the reporters proceeded into the outer office of the Court's chambers and asked the court official if they could enter the chambers. When the court official denied their request, the reporters informed the court official that they were objecting to the closing of the court proceeding on behalf of the Post-Gazette. Upon hearing this, the court official went into the chambers and returned shortly after to inform the reporters that the Post-Gazette's objection had been noted by the Court.

After holding the closed court proceeding, the Court entered an order approving the settlement as to the minors' claims and sealing the record "indefinitely in its entirety." On September 6, 2011, the Post-Gazette presented a Petition to Intervene and Motion to Unseal Record. In advance of the scheduled presentation date, counsel for the Hallowichs and the DEP both sent letters to the Court they were taking no position on the Post-Gazette's request to open the record. See Exhibits "I" and "J."

In response to the Post-Gazette's petition, the Court entered an order scheduling argument on the petition for October 4, 2011 and directing that twenty days before the argument "all parties seeking to seal the record in the above-captioned case shall serve on all other parties, including the Proposed Intervenor, and the Court, an answer to Intervenor's motion setting forth the basis in law and in fact why the record should be sealed." The Observer Reporter then filed its separate Petition to Intervene and Joinder in the Post-Gazette's petition and the Court

⁷ Despite Defendants' claims in Defendants' Joint Brief in Opposition, the Court never stated the confidential nature of the proceedings, as the Court was not present in the courtroom at any time during the incident at issue. The proceedings had yet to start before the court official moved the parties into chambers.

scheduled argument on the Observer Reporter's petition at the previously scheduled October 4, 2011 argument.

Consistent with their correspondence to the Court, neither the Hallowichs nor the DEP filed an answer or any response to the Intervenor's motions to open the record. The Defendants did not file an answer to the motions as directed by the Court. Instead they filed a brief to which the Intervenor now respond.⁸

II. ARGUMENT

The Court should grant the Joint Petition to Intervene and Motion to Unseal Record, as no party seeking to seal the records can rebut the presumption of openness in a civil proceeding that allows the public access to court records.

A. Governing Legal Standards

The Pennsylvania Constitution mandates open judicial proceedings. "All courts shall be open." Pa. Const. Art. I, § 11. See, e.g., *Hutchinson by Hutchinson v. Luddy*, 611 A.2d 1280 (Pa. Super. 1992). The tradition of keeping proceedings and records of civil proceedings open to public observation also is founded in the common law right, and as stated in *Publicker Industries, Inc. v. Cohen*, 733 F.2d 1059, 1071 (3rd Cir. 1984), "[it is] clear that the public and the press possess a First Amendment and a common law right of access to civil proceedings, indeed there is a presumption that these proceedings will be open."

The Defendants' brief acknowledges both the Constitutional and common law right to open courtrooms in Pennsylvania. Defendants' brief, p. 7, n. 6.

⁸ Contrary to footnote 2 in the Defendant's Joint Brief in Opposition, no joint motion to open all pleadings except for the settlement agreement has been filed with this Court. The Defendants have agreed to a joint motion to open all pleadings except for the settlement agreement, in which the Intervenor's claims that the balance of the record should be opened are preserved. The Defendants, in an apparent attempt to further obfuscate the issue, have insisted on holding off presentation of the joint motion until the October 4, 2011 argument, effectively making it impossible for the Intervenor to reference the record at the October 4, 2011 argument.

The filing of a petition to intervene in order to open proceedings and records by the news media, in a civil trial, is an appropriate means of raising assertions of public rights of access. See *Hutchinson by Hutchinson*, 611 A.2d at 1284. The Defendants' brief does not challenge the right of the Intervenor, both publishers of newspapers of general circulation in Western Pennsylvania and representatives of the general public, to intervene in this matter and challenge the sealing of the record.

In determining whether the record in a civil proceeding that contains a *mnemois*' action should be sealed, the Superior Court has adopted the standards set forth by the Third Circuit in *Publicker Industries*. See *Storms ex rel Storms v O'Malley*, 779 A.2d 548, 568 – 69 (Pa. Super. 2001). Under *Publicker Industries*, a trial court must satisfy certain procedural and substantive requirements before it can deny access to civil proceedings. *Publicker Industries*, 733 F.2d at 1071.

The Defendants acknowledge that the party who seeks closure bears the burden of establishing that closure is appropriate under the circumstances. See e.g. Defendants' brief, at p. 7. This was reiterated by the Pennsylvania Superior Court in *R.W. v. Hampe*, 626 A.2d 1218, 1220, n. 3 (Pa. Super. 1993):

"There are two methods of analysis of the competing interests involved in a request for closure. In the 'first amendment' or constitutional analysis, the presumption of openness may be rebutted by a claim that the denial of public access 'serves an important governmental interest and there is no less restrictive way to serve that government interest.' Under this method, which is based in the First Amendment of the United States and Art. 1, Section 11 of the Pennsylvania Constitution, it must be established that the 'material is the kind of information that the courts will protect and that there is good cause of the order to issue.' The second method of analysis is the common laws balancing approach, where a party must show that her personal interest in secrecy outweighs the traditional presumption of openness." (internal citations omitted)

In *Publicker Industries*, the Court held that the sealing of pleadings and the closure of trial proceedings may be warranted only when either an important governmental interest is at stake and

there is no less restrictive way to serve that governmental interest, or that a clearly defined and serious injury would have occurred to the motioning party if the record were not sealed, such as the disclosure of a trade secret *Publcker Industries*, 733 F.2d at 1070 - 71 Defendants, in their brief, acknowledge that under Pennsylvania law, closure only is warranted where disclosure will work "a *defined and serious injury* to the party seeking closure" Defendants' brief, p 7 (emphasis added)

The decisions of the Pennsylvania appellate courts demonstrate both how heavy a burden the Defendants face and the courts' reluctance to close proceedings and seal records. In *R W v. Hampe, supra*, the Superior Court reversed the sealing of the record at the request of the plaintiff in a psychiatric malpractice lawsuit even though the "record reveals that it does contain embarrassing information, particularly of a sexual nature" 626 A 2d at 1223 See also *Hutchison, supra* (affirming denial of a request to seal the record in a case involving allegations of sexual abuse of a minor by a priest) It is notable that in *Stenger v Lehigh Valley Hospital Center*, 554 A 2d 954, 959 (Pa Super 1989), cited by the Defendants, the Superior Court held that the intervening newspaper would "clearly have access to publish the evidence at trial" even though it potentially involved information regarding the plaintiffs' "sexual practices, their idiosyncrasies, and their personal hygiene habits."

A trial court, before closing a proceeding, must afford the representatives of the media objecting to closure a full opportunity to be heard with their counsel present⁹ If it decides to order closure, the trial court then must both articulate the countervailing interest it seeks to protect and

⁹ Defendants, in Defendants' Joint Brief in Opposition, argue that this Court has already conducted such a hearing, alleging this Court "found that all parties had knowingly and voluntarily consented to the confidentiality provisions" during the closed chambers hearing However, it is axiomatic that a hearing conducted in closed chambers, without the presence of the general public, who seek their constitutional and common law right of access, is not a proper hearing as required under *Publcker Industries*. In addition, as discussed *infra*, a unilateral agreement of confidentiality can never be an essential term of the settlement of a minors' action

make findings specific enough that a reviewing court can determine whether the closure order was properly entered. *See Publiker Industries*, 733 F.2d at 1071-72.

B. The Court Should Grant the Joint Petition to Intervene and Motion to Unseal Record, Because No Party Seeking Closure Can Rebut the Presumption of Openness Present in the Proceedings Before This Court

i. No Party Seeking Closure Can Rebut the Presumption of Openness Under the Constitutional Analysis

With the above as background, the issue before this Court is what have Defendants shown that could possibly reach the high bar of "a clearly defined and serious injury" that would warrant closure in this proceeding.

An analysis of what the Defendants' brief does *not* argue is instructive. The Defendants do not contend that the record contains any trade secret or proprietary information, the disclosure of which would cause financial damage to the Defendants.

Instead, the gravamen of Defendants' argument is found at page 8 of their brief, which states

"Here there is an overriding interest that trumps any right of access the press assert to the confidential settlement agreement and related filings, namely, that a court ruling allowing press access to a settlement agreement whenever a minor is involved, despite confidential provisions in the agreement negotiated and agreed to by the parties would destroy a litigant's right to privately contract whenever Orphans' Court approval of that settlement is required."

It is clear that the Defendants' argument is disingenuous in the extreme. At the bottom of this effort is the self-evident interest of the Defendants to hide from the public a judicial record that shows the resolution of admitted claims against the Defendants for water and air pollution of a residential area. This case has drawn national media coverage in which all parties participated. This case has a wide ranging impact on issues related to natural gas drilling, a subject which has

drawn intense coverage and discussion in public forums in recent months. The public's right to know the case's resolution could not be farther from "mere curiosity", as the Defendants contend. There are few cases that could be more compelling for public disclosure. Clearly, the Defendants do not want the bright light of media coverage on the resolution of the Hallowichs' claims.

The efforts of the Defendants to hide their true motivation behind issues regarding minors' could not be clearer. The public's right to know what transpires in judicial proceedings involving issues of immense public importance has been emphasized by the Pennsylvania Superior Court. Noting that Justice Holmes declared that public access to civil judicial proceedings was of "vast importance", the Court reasoned

"The educative effect of public attendance is a material advantage. Not only is respect for the law increased and intelligent acquaintance acquired with the methods of government, but a strong confidence in judicial remedies is secured which could never be inspired by a system of secrecy."

R. W. v. Hampe, supra at 1221 (citing Wigmore on Evidence).

The Defendants' motivation aside, their argument ignores the essential presumptively public proceedings involved in a settlement of a minor's claim. Rule 2039 of the Pennsylvania Rules of Civil Procedure states "[n]o action to which a minor is a party shall be compromised, settled or discontinued except after approval by the court pursuant to a petition presented by the guardian of the minor." In the instant matter, a private agreement is not at issue. Rather there is a mandated court procedure whereby a petition must be presented to the Court detailing the proposed settlement. The Court then has the right to approve or disapprove the proposed settlement agreement. Inherently, every detail of the settlement is part of a court proceeding subject to the Constitutional mandate that such proceedings shall be open to the public.

As the Pennsylvania Superior Court has noted "[a] confidentiality clause [can] never be an essential term of an agreement to settle a **minor's** claim, since settlement of a minor's claim

requires court approval pursuant to Pa.R.C.P. 2039, and court proceedings are a matter of public record." See *Storms, supra*, at 568, n. 12. "Thus, [the] sealing of the record in the case of a minor's settlement is not a *pro forma* matter that is automatically performed upon the agreement of the parties, but rather, is permitted only upon analysis and approval by the court." *Id.*

In *Storms, supra*, the facts were strikingly similar to those in the instant matter. The cause of action arose from a claim upon behalf of the minor and her parents that she suffered injuries as a result of the medical malpractice of the defendant doctor. The defendant doctor sought to seal the record in an obvious attempt to avoid disclosure of the claims against him and the large settlement being paid to the plaintiffs. The trial court rejected the defendant's request to seal the record and the Superior Court affirmed.

The Superior Court, in *Storms*, held that to seal the record in a civil proceeding which contains a minor's action, the party seeking closure must rebut the presumption of openness by either 1) showing that the closure serves an important governmental interest and that there is no less restrictive way to serve that interest (Constitutional analysis) or 2) show that his or her interest in secrecy outweighs the presumption of openness (common law analysis). See *Storms*, 779 A.2d at 569. The *Storms* Court reiterated that under the Constitutional analysis the presumption only can be overcome by showing a clearly defined and serious injury to the party seeking closure. *Storms*, 779 A.2d at 569.

As in the instant case, the defendant argued that public disclosure would discourage settlement. The Superior Court said that argument did not overcome the far greater right of public access to Court proceedings:

". [Defendant's] argument that there was no public interest in leaving the record open and that the sealing of the record would encourage settlement did not outweigh the public's interest in open court proceedings." *Storms*, 779 A.2d at 569 – 70.

In *Storms*, the Court was presented by opposition from both the plaintiffs and the defendant, as the plaintiffs eventually joined in the effort to seal the record. Here, the Plaintiff Hallowichs have not joined in the opposition to seal the record and instead "defer to the Court's discretion . . . whether to open or seal the record. See Exhibit "I."

Defendants' brief does not cite or attempt to distinguish *Storms*. The only case Defendants cite in support of their position, *Beaver v. McColgan*, 11 Pa. D. & C. 4th 97 (Ct. Com. Pl. Columbia Co. 1990) is not binding precedent on this Court and was issued eleven years before the Superior Court's decision in *Storms*. Even if there was not the overriding precedent of *Storms*, *Beaver* is clearly distinguishable. In *Beaver*, the mother of the minor was the party moving to seal the record, as she wished her financial privacy protected following a tragic accident where her husband was killed, she was seriously injured and the minor was left paralyzed from the waist down. Here, the Hallowichs have neither opposed the opening of the record nor attempted to keep the litigation private, including their financial demands. Instead they have made it a national *cause célèbre*. Further, in *Beaver*, the representative of the media remained silent in the proceedings and asserted no reason on the record why the public had an interest in the outcome.

In the instant matter, Defendants' argument that the "overriding interest of the parties in the confidentiality of their settlement agreement outweighs any right of access to the [record]" is fallacious. In fact, the Defendants' proposition that "the mere presence of minors in a settlement

does not give the public right of access to an out-of-court settlement agreement that would otherwise have been kept confidential" has been explicitly rejected by the Superior Court in *Storms*.

In addition, despite the Defendants' failure to raise any compelling government interests, or show any way that opening the record will work a clearly defined and serious injury to a party seeking closure, no privacy interest exists which rebuts the presumption of openness. Any argument that an important government interest exists in protecting the privacy of the Children fails. The Hallowichs, by their failure to object to opening the record, have made a *sub silentio* admission that they do not believe that they or the Children will suffer any injury by opening the record.

Similarly by the DEP's failure to object to the opening of the record, the DEP acknowledges it does not believe an important government interest exists which necessitates closure of the record.

Even if the Hallowichs had objected to opening the record, no interest in protecting the Children's privacy exists which outweighs the presumption of openness. The Hallowichs have mounted an intense media campaign, with the Children as the focal point, to highlight the alleged damage caused to the Children by the Defendants. The Hallowichs appeared in national nightly news interviews, national news media publications, and local news media publications that contained pictures of the Children, videos of the Children outside their home, the location of the Children's residence, the age and names of the Children, the health ailments the Children suffered from, etc. In addition, the intimate financial details of the above-captioned case have been discussed by *both sides* in the media, including previous settlement offers, current demands, and the alleged monthly expenses of the Hallowichs.

ii. No Party Seeking Closure Can Rebut the Presumption of Openness

Under the Common Law Analysis

As stated *supra*, under the common law approach, the party seeking closure must show that his or her interest in secrecy outweighs the presumption of openness. To rebut the presumption of openness, as also required under the constitutional approach, the party must establish "good cause" by showing that closure is "necessary in order to prevent a clearly defined and serious injury to the party seeking" it. See *R.W. v Hampe, supra* at 1221. Discussing the type of injuries that may necessitate closure, this Court in *Hutchinson by Hutchinson* stated

Thus the public may be "excluded, temporarily or permanently, from court proceedings or the records of court proceedings to protect private as well as public interests; to protect trade secrets, or the privacy and reputations [of innocent parties], as well as to guard against risks to national security interests, and to minimize the danger of an unfair trial by adverse publicity."
Hutchinson by Hutchinson, 611 A.2d at 1290.

It is significant that the Defendants do not raise an interest in secrecy that outweighs the presumption of openness, nor do they establish that closure is necessary in order to prevent a clearly defined and serious injury to the party seeking it. Instead, Defendants simply state that "litigants should be entitled to rely on confidentiality provisions in their settlement agreements" in actions involving minors and "that the mere presence of minors in a settlement does not give the public a right of access." As discussed *supra*, these assertions are directly contradictory to the Superior Court's holding in *Storms*, which found settlements submitted to court in compliance with Pa.R.C.P. 2309 to be public records, of which a confidentiality provision could not be an essential term. In essence, the mere presence of minors in a settlement requires the settlement to be part of the public record, and requires any party seeking closure to rebut the presumption of openness that applies to civil proceedings.

Along with failing to raise a clearly defined or serious injury that the Defendants will suffer, no other risk of serious injury exists which would necessitate closure. As the Hallowichs have not objected to the Joint Petition to Intervene and Motion to Unseal Record, and have not filed a brief asserting the continued sealing of the record, no privacy interest exists for the Children which would necessitate closure. Additionally, Defendants have not asserted that any trade secrets or proprietary information are included in the settlement, which preclude its opening.


In *Storms*, the Superior Court rejected arguments that a serious injury would occur to the privacy of the minor child, the business reputation of the defendant, and the court's general policy to encourage settlements, if the record was unsealed, stating: "the [party seeking closure] failed to establish that they would suffer a "serious injury," absent sealing of the [settlement agreement]." *Storms*, 779 A 2d at 570. As such, no party can rebut the presumption of openness under the common law analysis.

III. CONCLUSION

As demonstrated above, no party can rebut the presumption of openness that applies to civil proceedings involving a minor's action. Defendants have failed to rebut the presumption of openness under both the constitutional analysis and common law analysis. As settlements submitted to a court under Pa.R.C.P. 2039 are public records which can only be sealed upon rebutting the presumption of openness given to all civil proceedings, which the Defendants have not and cannot do, the records in the above-captioned case should be unsealed in their entirety. Based on the foregoing reasons, Intervenor respectfully request that the Court grant the Joint Petition to Intervene and Motion to Unseal Record.

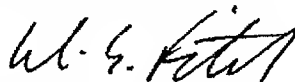
Respectfully submitted,

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Full Docket Print for Case #:

C-63-CV-201003954

Case Title: HOLLOWICH VS RANGE
Case Type: SUMMONS-CIVIL ACTION
Status: CLOSED

Court of Common Pleas of Washington County
Commonwealth of Pennsylvania

Party Details

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8/23/2011



Full Docket Print for Case #:

C-63-CV-201003954

05/27/2010 4581 4 SUMMONS-CIVIL ACTION

05/27/2010 4074 5 MOTION

06/18/2010 4034 1 APPEARANCE OF

06/21/2010 4034 1 APPEARANCE OF

06/25/2010 4034 1 APPEARANCE OF

07/02/2010 4034 1 APPEARANCE OF

07/02/2010 4034 2 APPEARANCE OF

07/19/2010 4184 1 SERVED

08/11/2010 4299 1 RESPONSE

18/17/2010 4359 1 ORDER TO RECUSE JUDGE

18/20/2010 4289 1 BRIEF

TO STAY ALL RULES TO FILE COMPLAINT AND FOR LEAVE OF COURT TO CONDUCT PRE-COMPLAINT DISCOVERY IN THE NATURE OF INFORMATION AND DOCUMENT PRODUCTION FOR THE PURPOSE OF DRAFTING AND SERVING A SUFFICIENT COMPLAINT, AND MOTION TO STAY PROCEEDING FOR A SUFFICIENT PERIOD TO ALLOW PLTF TO CONDUCT DISCOVERY BY THE PLTFs

GAIL A. MYERS ASSISTANT COUNSEL FOR COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION.

KATHY K. CONDO, ESQ. ATTY FOR DEFT WILLIAMS GAS/LAUREL

MOUNTAIN MIDSTREAM. (NOTICE OF APPEARANCE)

BRIN MCDOWELL ATTY FOR MARK WEST ENERGY PARTNERS, L.P. AND

MARK WEST ENERGY GROUP, L.L.C (NOTICE OF APPEARANCE)

JAMES C. SWETZ OF THE LAW FIRM K&L GATES LLP ON BEHALF OF

RANGE RESOURCES CORPORATION ("RANGE RESOURCES").

RICHARD W. HOSKING OF THE LAW FIRM K&L GATES LLP ON BEHALF

OF THE DEFTs. RANGE RESOURCES CORPORATION ("RANGEN RE-SOURCES")

WRIT OF SUMMONS & MOTION FOR PRE-COMPLAINT DISCOVERY ON

RANGE RESOURCES CORPORATION ON 6-8-2010 SERVED MARKWEST

ENERGY PARTNERS, L.P AND MARKWEST ENERGY GROUP, L.L.C ON

6-14-2010. SERVED PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL

PROTECTION ON 6-10-2010 BY THE ALLEGHENY COUNTY SHERIFF'S

OFFICE SERVED WILLIAMS GAS/LAUREL MOUNTAIN MIDSTREAM ON

6-16-2010 BY THE ALLEGHENY COUNTY SHERIFF'S OFFICE

IN OPPOSITION TO PLTFs' MOTION TO STAY ALL RULES TO FILE

COMPLAINT AND FOR LEAVE OF COURT TO CONDUCT PRE-COMPLAINT

DISCOVERY IN THE NATURE OF INFORMATION AND DOCUMENT PRO-

DUCTION FOR THE PURPOSE OF DRAFTING AND SERVING A SUFFI-

CIENT COMPLAINT, AND MOTION TO STAY PROCEEDING FOR A

SUFFICIENT PERIOD TO ALLOW PLTF. TO CONDUCT DISCOVERY

BY MARKWEST ENERGY PARTNERS, LP AND MARKWEST ENERGY GROUP,

LLC

THAT MOTION REASSIGNED TO: PAUL POZONSKY. SEE PAPER.

O'DELL SENECA, P.J

IN SUPPORT OF MOTION TO STAY ALL RULES TO FILE COMPLAINT AND

Full Docket Print for Case #
08/20/2010 4289 1 BRIEF

C-63-CV-201003954

08/20/2010 4300 2 CERTIFICATE

08/27/2010 4289 1 BRIEF

08/27/2010 4289 2 BRIEF

08/27/2010 4251 3 SUPPLEMENTAL

11/17/2010 4208 1 ORDER

FOR LEAVE OF COURT TO CONDUCT PRE-COMPLAINT
DISCOVERY IN
THE NATURE OF INFORMATION AND DOCUMENT
PRODUCTION FOR THE
PURPOSE OF DRAFTING AND SERVING A SUFFICIENT
COMPLAINT, AND
MOTION TO STAY PROCEEDING FOR A SUFFICIENT PERIOD
TO ALLOW
PLTFS. TO CONDUCT DISCOVERY BY PLTFS
OF SERVICE OF PLTFS' BRIEF IN SUPPORT OF MOTION TO
STAY
ALL RULES TO FILE COMPLAINT AND FOR LEAVE OF COURT
TO
CONDUCT PRE-COMPLAINT DISCOVERY IN THE NATURE OF
INFORMA-
TION AND DOCUMENT PRODUCTION FOR THE PURPOSE OF
DRAFTING
AND SERVING A SUFFICIENT COMPLAINT, AND MOTION TO
STAY
PROCEEDING FOR A SUFFICIENT PERIOD TO ALLOW PLTFS.
TO
CONDUCT DISCOVERY UPON GAIL A. MYERS, ESQ. VIA FIRST
CLASS
MAIL ON 8-19-2010.
OF DEPT. RANGE RESOURCES CORPORATION IN OPPOSITION
TO
PLTFS' MOTION FOR PRE-COMPLAINT DISCOVERY.
OF DEPT. WILLIAMS GAS/LAUREL MOUNTAIN MIDSTREAM IN
OPPOSI-
TION TO PLTFS' MOTION FOR PRE-COMPLAINT DISCOVERY.
RESPONSE IN OPPOSITION TO PLTFS' MOTION TO STAY ALL
RULES
TO FILE COMPLAINT AND FOR LEAVE OF COURT TO
CONDUCT PRE-
COMPLAINT DISCOVERY IN THE NATURE OF INFORMATION
AND DOCU-
MENT PRODUCTION FOR THE PURPOSE OF DRAFTING AND
SERVING A
SUFFICIENT COMPLAINT, AND MOTION TO STAY
PROCEEDING FOR A
SUFFICIENT PERIOD TO ALLOW PLTF TO CONDUCT
DISCOVERY BY
THE DEPT. MARKWEST ENERGY PARTNERS, LP AND
MARKWEST ENERGY
GROUP, LLC
THAT UPON CONSIDERATION OF THE PLTFS' MOTION FOR
LEAVE OF
COURT TO CONDUCT PRE-COMPLAINT DISCOVERY IN THE
NATURE OF
INFORMATION AND DOCUMENT PRODUCTION TO DRAFT
AND SERVE A
SUFFICIENT COMPLAINT, AND MOTION TO STAY
PROCEEDING FOR A
SUFFICIENT PERIOD TO ALLOW PLTF. TO CONDUCT
DISCOVERY, IT
IS HEREBY ORDERED THAT PLTFS' MOTIONS ARE DENIED
SEE
PAPER. PLTFS., STEPHANIE HALLOWICH AND CHRIS
HALLOWICH,
ARE HEREBY ORDERED TO FILE THEIR CIVIL COMPLAINT
PURSUANT
TO THE PENNSYLVANIA RULES OF CIVIL PROCEDURE.
POZONSKY, J. COPIES SENT ON 11-18-2010.

Full Docket Print for Case #:

C-63-CV-201003954

07/11/2011 4101 1 PRAECIPE TO DISCONTINUE

AND SUIT DISMISSED WITH PREJUDICE WITH ALL PARTIES TO BEAR

THEIR OWN COSTS BY PETER M. VILLARI, ATTORNEY FOR PLAINTIFFS

07/28/2011 4130 1 PETITION

FOR APPROVAL OF SETTLEMENT OF MINORS' ACTIONS PURSUANT TO

07/28/2011 4074 2 MOTION

PA R C P. 2039 AND LOCAL RULE 2039.1 BY PLTFS

(JOINT) TO FILE PETITION FOR APPROVAL OF MINORS' ACTIONS

07/28/2011 4300 3 CERTIFICATE

UNDER SEAL BY PLTFS.

OF SERVICE OF PLTFS.' PETITION FOR APPROVAL OF SETTLEMENT

OF MINORS' ACTIONS UPON GAIL A MYERS, ESQ, KATHY K. CONDO, ESQ., ERIN WINDLE MCDOWELL, ESQ., RICHARD HOSKING,

ESQ AND JAMES C. SWETZ, ESQ. VIA FIRST CLASS MAIL ON 7-27-2011.

07/28/2011 4300 4 CERTIFICATE

OF SERVICE OF JOINT MOTION TO FILE PETITION FOR APPROVAL OF

SETTLEMENT OF MINORS' ACTIONS UNDER SEAL UPON GAIL A. MYERS,

ESQ, KATHY K. CONDO, ESQ, ERIN WINDLE MCDOWELL, ESQ.,

RICHARD HOSKING, ESQ. AND JAMES C. SWETZ, ESQ VIA FIRST

CLASS MAIL ON 7-27-2011.

08/11/2011 4385 1 MOTION AND ORDER

[PROPOSED] SCHEDULING) THAT UPON CONSIDERATION OF THE JOINT

MOTION FOR SCHEDULING ORDER, THIS COURT HEREBY SCHEDULES A

HEARING IN CLOSED COURT CHAMBERS ON (I) PLTFS' PETITION FOR

APPROVAL OF SETTLEMENT OF MINORS' ACTIONS PURSUANT TO PA.

R.C.P. 2039 AND LOCAL RULE 2039.1 AND (II) THE JOINT MOTION

TO FILE PETITION FOR APPROVAL OF SETTLEMENT OF MINORS'

ACTIONS UNDER SEAL FOR WEDNESDAY, 08-24-2011, OR AS SOON

THEREAFTER AS SUITS THE CONVENIENCE OF THE COURT. HEARING

TO BE HELD 08-26-2011, AT 11:00 A.M. POZONSKY, J.

(JOINT MOTION FOR SCHEDULING HEARING)

Judgment Summary

Judgment seq

Judgment Date:

Judgment Text.

Party Details

Judgment Amt.

Judgment Code.

(C)orp or (P)erson. C

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W

Plaintiffs,

vs

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L L C , AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendants

No. C-63-CV-201003954

**PROPOSED INTERVENORS' JOINT
PETITION FOR A HEARING**

Counsel of Record for Proposed Intervenors

Frederick N Frank, Esquire
Pa. I D. #10395

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(724) 225-6600

*Attorneys for Observer Publishing
Company, d/b/a Observer Reporter*

2011 OCT -7 AM 10:30

GA

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W,

Plaintiffs,

vs

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P , MARKWEST ENERGY
GROUP, L L C , AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendants.

No. C-63-CV-201003954

PROPOSED INTERVENORS' JOINT PETITION FOR A HEARING

AND NOW, Proposed Intervenor, PG Publishing Company, d/b/a The Pittsburgh Post-Gazette ("Post-Gazette"), by and through their attorneys, Frederick N. Frank, Esquire, and Frank, Gale, Bails, Murcko & Pocrass, P C and Observer Publishing Company, d/b/a Observer Reporter ("Observer Reporter"), by and through their attorneys, Colin E Fitch, Esquire, and Marriner, Jones & Fitch (collectively "Proposed Intervenor") hereby moves this Honorable Court for an order granting the Proposed Intervenor's Joint Petition for a Hearing in the above-captioned case. In support thereof, the Proposed Intervenor states as follows:

1. On May 27, 2010, Stephanie and Chris Hallowich (collectively "Hallowichs") commenced this action by a praecipe to issue a writ of summons against Range Resources Corporation, Williams Gas/Laurel Mountain Midstream, MarkWest Energy Partners, L P ,

MarkWest Energy Group, L.L.C. (collectively "Defendants") and the Pennsylvania Department of Environmental Protection

2 As acknowledged in the Defendants' Joint Brief in Opposition to PG Publishing Company's and the Observer Publishing Company's Petition to Intervene and Motion to Unseal Record ("Defendants' Joint Brief in Opposition"), which was filed by order of court on September 19, 2011, a settlement was executed in late June 2011 between the Hallowichs, the Hallowichs' two minor children, and the Defendants

3 On July 28, 2011, the Hallowichs filed a Petition for Approval of Settlement of Minors' Actions Pursuant to Pa.R.C.P. 2039 and Local Rule 2039.1 ("Petition for Approval of Settlement of Minors' Actions") before this Court, asking this Court to approve a settlement with the Defendants, which was required due to the presence of the Hallowichs' two minor children as parties to the settlement agreement. On the same date, a Joint Motion to File Petition for Approval of Settlement of Minors' Actions under Seal ("Joint Motion to Seal") was filed by the Hallowichs.¹

4 Upon consideration of these pleadings, the Court scheduled a hearing in closed court chambers for either August 24, 2011 or August 26, 2011.²

¹ It should be noted that due to the Court's sealing of the record in the above-captioned matter, Proposed Intervenor have been unable to gain access to the full docket in the underlying matter. Proposed Intervenor only have access to a partial copy of the docket in the underlying matter, dated August 23, 2011. A true and correct copy of the docket, dated August 23, 2011, is attached herein as Exhibit "A."

² As stated *supra*, Proposed Intervenor only have access to a partial docket, dated August 23, 2011, which states in the "Event Summary," under August 11, 2011:

"Upon consideration of the Joint Motion for Scheduling Order, this Court hereby schedules a hearing in closed court chambers on (I) [Petition for Approval of Settlement of Minors' Actions] and (II) [Joint Motion to Seal] for Wednesday, 08-24-2011, or as soon thereafter as suits the convenience of the Court. Hearing to be held 08-26-2011, at 11:00 a.m."

See Exhibit "A."

Due to the sealing of the record, and the ambiguity in the docket, Proposed Intervenor are uncertain when the hearing was scheduled to occur.

5. On August 23, 2011,³ the Court held a hearing on the Petition for Approval of Settlement of Minors' Actions and the Joint Motion to Seal

6 Before the hearing commenced on August 23, 2011, two reporters for the Post-Gazette were present in the courtroom.

7. Based on Defendants' Joint Brief in Opposition and statements by Defendants' counsel before the Court, there is substantial disagreement and dispute between Proposed Intervenors and Defendants regarding the events that took place before, during and after the August 23, 2011 court proceeding before the Court

8 Further, based upon the aforesaid pleading and statements, as well as statements made by the Court during proceedings that took place after the August 23, 2011 court proceeding, there is a disagreement on what, if any, notice was given to the Proposed Intervenors regarding the Petition for Approval of Settlement of Minors' Actions and the Joint Motion to Seal, the re-scheduling of the court proceeding for August 23, 2011 and the subsequent issuance of the August 23, 2011 Order of Court

9 After the record was sealed by the August 23, 2011 Order of Court, Proposed Intervenors filed joint petitions to intervene and motions to unseal records before the Court

10 Subsequently, at the October 4, 2011 hearing on the Proposed Intervenors' petitions, the Court raised the issue of the Proposed Intervenor's right to intervene in the above-captioned matter. As set forth herein, the facts regarding when and what objections/requests to intervene were made by the Post-Gazette, one of the Proposed Intervenors, during the August 23, 2011 court proceeding and thereafter are at issue

³ Proposed Intervenors are unaware of any order of court that re-scheduled the hearing for August 23, 2011, or any reason as to why the hearing was held on August 23, 2011


11 Proposed Intervenor anticipate that the facts in dispute are crucial to the matter now at issue before the Court and an evidentiary hearing will provide the Court with sufficient background on which it may base its ruling

12 Proposed Intervenor respectfully request that the Court schedule an evidentiary hearing to be held on the issues discussed herein.

WHEREFORE, Proposed Intervenor pray this Honorable Court schedule a evidentiary hearing in this matter


Respectfully submitted,

FRANK, GALE, BAILS, MURCKO &
POCRASS, P C

By 
Frederick N Frank, Esquire

*Attorneys for PG Publishing Company,
d/b/a The Pittsburgh Post-Gazette*

MARRINER, JONES & FITCH

By 
Colin E Fitch, Esquire

*Attorneys for Observer Publishing
Company, d/b/a Observer Reporter*

Full Docket Print for Case #:

C-63-CV-201003954

Case Title: HOLLOWICH VS RANGE
 Case Type: SUMMONS-CIVIL ACTION
 Status: CLOSED

Court of Common Pleas of Washington County
 Commonwealth of Pennsylvania

Party Details

PLAINTIFF # 1	HOLLOWICH STEPHANIE 179 AVELLA ROAD HICKORY, PA 15340	
Attorney # 92443	WILKEY ROBERT N 8 TOWER BRIDGE 161 WASHINGTON STREET 4TH FLOOR CONSHOHOCKEN, PA 19428	PRIVATE COUNSEL
PLAINTIFF # 2	HOLLOWICH CHRIS 179 AVELLA ROAD HICKORY, PA 15340	
Attorney # 92443	WILKEY ROBERT N 8 TOWER BRIDGE 161 WASHINGTON STREET 4TH FLOOR CONSHOHOCKEN, PA 19428	PRIVATE COUNSEL
DEFENDANT # 1	RANGE RESOURCES CORPORATION 380 SOUTHPOINTE BOULEVARD CANONSBURG, PA 15317	
Attorney # 32982	RICHARD W HOSKING 1500 OLIVER BLDG PITTSBURGH, PA 15222	PRIVATE COUNSEL
Attorney # 208717	SWETZ JAMES C K&L GATES CENTER 210 SIXTH AVENUE PITTSBURGH, PA 15222613	PRIVATE COUNSEL
DEFENDANT # 2	WILLIAMS GAS LAUREL MOUNTAIN MIDSTR 1550 CORAOPOLIS HEIGHTS ROAD 2ND FLOOR MOON TOWNSHIP, PA 15108	
Attorney # 34910	KATHY K CONDO-CARITIS TWO GATEWAY CENTER 8TH FLOOR PITTSBURGH, PA 15222	PRIVATE COUNSEL
DEFENDANT # 3	LAUREL MOUNTAIN MIDSTREAM 1550 CORAOPOLIS HEIGHTS ROAD 2ND FLOOR MOON TOWNSHIP, PA 15108	
DEFENDANT # 4	MARKWEST ENERGY PARTNERS L P 100 PLAZA DRIVE SUITE 402 P O BOX 279 ATLASBURG, PA 15004	
Attorney # 93684	MCDOWELL ERIN WINDLE 44TH FLOOR 600 GRANT STREET PITTSBURGH, PA 15219	PRIVATE COUNSEL
DEFENDANT # 5	MARKWEST ENERGY GROUP L L C	

8/23/2011



Full Docket Print for Case #:

C-63-CV-201003954

100 PLAZA DRIVE
SUITE 102

P O BOX 279

ATLASBURG, PA 15004

Attorney # 93684

MCDOWELL ERIN WINDLE

PRIVATE COUNSEL

44TH FLOOR

600 GRANT STREET

PITTSBURGH, PA 15219

DEFENDANT # 6

PENNSYLVANIA DEPARTMENT OF ENVIRON

400 WATERFRONT DRIVE

PITTSBURGH, PA 15222

Attorney #. 48831

GAIL A MYERS

PRIVATE COUNSEL

400 WATERFRONT DR

PITTSBURGH, PA 15222

Event Summary

Full Docket Print for Case #:

C-63-CV-201003954

05/27/2010 4581 4 SUMMONS-CIVIL ACTION

05/27/2010 4074 5 MOTION

TO STAY ALL RULES TO FILE COMPLAINT AND FOR LEAVE OF COURT TO CONDUCT PRE-COMPLAINT DISCOVERY IN THE NATURE OF INFORMATION AND DOCUMENT PRODUCTION FOR THE PURPOSE OF DRAFTING AND SERVING A SUFFICIENT COMPLAINT, AND MOTION TO STAY PROCEEDING FOR A SUFFICIENT PERIOD TO ALLOW PLTF. TO CONDUCT DISCOVERY BY THE PLTFs.

06/18/2010 4034 1 APPEARANCE OF

GAIL A. MYERS ASSISTANT COUNSEL FOR COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION.

06/21/2010 4034 1 APPEARANCE OF

KATHY K. CONDO, ESQ. ATTY FOR DEFT WILLIAMS GAS/LAUREL

06/25/2010 4034 1 APPEARANCE OF

MOUNTAIN MIDSTREAM (NOTICE OF APPEARANCE)

ERIN MCDOWELL ATTY FOR MARK WEST ENERGY PARTNERS, L.P. AND

MARK WEST ENERGY GROUP, L.L.C. (NOTICE OF APPEARANCE)

07/02/2010 4034 1 APPEARANCE OF

JAMES C. SWETZ OF THE LAW FIRM K&L GATES LLP ON BEHALF OF

RANGE RESOURCES CORPORATION ("RANGE RESOURCES").

RICHARD W. HOSKING OF THE LAW FIRM K&L GATES LLP ON BEHALF

OF THE DEFTS. RANGE RESOURCES CORPORATION ("RANGE RESOURCES").

07/19/2010 4184 1 SERVED

WRIT OF SUMMONS & MOTION FOR PRE-COMPLAINT DISCOVERY ON

RANGE RESOURCES CORPORATION ON 6-8-2010 SERVED MARKWEST

ENERGY PARTNERS, L.P. AND MARKWEST ENERGY GROUP, L.L.C. ON

6-14-2010. SERVED PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL

PROTECTION ON 6-10-2010 BY THE ALLEGHENY COUNTY SHERIFF'S

OFFICE. SERVED WILLIAMS GAS/LAUREL MOUNTAIN MIDSTREAM ON

6-16-2010 BY THE ALLEGHENY COUNTY SHERIFF'S OFFICE IN OPPOSITION TO PLTFs' MOTION TO STAY ALL RULES TO

FILE COMPLAINT AND FOR LEAVE OF COURT TO CONDUCT

PRE-COMPLAINT DISCOVERY IN THE NATURE OF INFORMATION AND

DOCUMENT PRODUCTION FOR THE PURPOSE OF DRAFTING AND SERVING A

SUFFICIENT COMPLAINT, AND MOTION TO STAY PROCEEDING FOR A

SUFFICIENT PERIOD TO ALLOW PLTF. TO CONDUCT DISCOVERY

BY MARKWEST ENERGY PARTNERS, L.P. AND MARKWEST ENERGY GROUP,

LLC

08/17/2010 4359 1 ORDER TO RECUSE JUDGE

THAT MOTION REASSIGNED TO: PAUL POZONSKY. SEE PAPER.

O'DELL SENECA, P.J.

08/20/2010 4289 1 BRIEF

IN SUPPORT OF MOTION TO STAY ALL RULES TO FILE COMPLAINT AND

re: 8/23/2011

Full Docket Print for Case #:
08/20/2010 4289 1 BRIEF

C-63-CV-201003954

08/20/2010 4300 2 CERTIFICATE

08/27/2010 4289 1 BRIEF

08/27/2010 4289 2 BRIEF

08/27/2010 4251 3 SUPPLEMENTAL

11/17/2010 4208 1 ORDER

FOR LEAVE OF COURT TO CONDUCT PRE-COMPLAINT
DISCOVERY IN
THE NATURE OF INFORMATION AND DOCUMENT
PRODUCTION FOR THE
PURPOSE OF DRAFTING AND SERVING A SUFFICIENT
COMPLAINT, AND
MOTION TO STAY PROCEEDING FOR A SUFFICIENT PERIOD
TO ALLOW
PLTFS TO CONDUCT DISCOVERY BY PLTFS.
OF SERVICE OF PLTFS.' BRIEF IN SUPPORT OF MOTION TO
STAY
ALL RULES TO FILE COMPLAINT AND FOR LEAVE OF COURT
TO
CONDUCT PRE-COMPLAINT DISCOVERY IN THE NATURE OF
INFORMA-
TION AND DOCUMENT PRODUCTION FOR THE PURPOSE OF
DRAFTING
AND SERVING A SUFFICIENT COMPLAINT, AND MOTION TO
STAY
PROCEEDING FOR A SUFFICIENT PERIOD TO ALLOW PLTFS.
TO
CONDUCT DISCOVERY UPON GAIL A. MYERS, ESQ. VIA FIRST
CLASS
MAIL ON 8-19-2010.
OF DEFT. RANGE RESOURCES CORPORATION IN OPPOSITION
TO
PLTFS.' MOTION FOR PRE-COMPLAINT DISCOVERY.
OF DEFT. WILLIAMS GAS/LAUREL MOUNTAIN MIDSTREAM IN
OPPOSI-
TION TO PLTFS.' MOTION FOR PRE-COMPLAINT DISCOVERY.
RESPONSE IN OPPOSITION TO PLTFS ' MOTION TO STAY ALL
RULES
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CONDUCT PRE-
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AND DOCU-
MENT PRODUCTION FOR THE PURPOSE OF DRAFTING AND
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SUFFICIENT COMPLAINT, AND MOTION TO STAY
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DISCOVERY BY
THE DEFT. MARKWEST ENERGY PARTNERS, LP AND
MARKWEST ENERGY
GROUP, LLC
THAT UPON CONSIDERATION OF THE PLTFS.' MOTION FOR
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DISCOVERY, IT
IS HEREBY ORDERED THAT PLTFS ' MOTIONS ARE DENIED
SEE
PAPER PLTFS., STEPHANIE HALLOWICH AND CHRIS
HALLOWICH,
ARE HEREBY ORDERED TO FILE THEIR CIVIL COMPLAINT
PURSUANT
TO THE PENNSYLVANIA RULES OF CIVIL PROCEDURE.
POZONSKY, J COPIES SENT ON 11-18-2010

Full Docket Print for Case #:

C-63-CV-201003954

07/11/2011 4101 1 PRACIPE TO DISCONTINUE

AND SUIT DISMISSED WITH PREJUDICE WITH ALL PARTIES TO BEAR THEIR OWN COSTS BY PETER M. VILLARI, ATTORNEY FOR PLAINTIFFS

07/28/2011 4130 1 PETITION

FOR APPROVAL OF SETTLEMENT OF MINORS' ACTIONS PURSUANT TO

07/28/2011 4074 2 MOTION

PA R.C.P. 2039 AND LOCAL RULE 2039.1 BY PLTFS (JOINT) TO FILE PETITION FOR APPROVAL OF MINORS' ACTIONS UNDER SEAL BY PLTFS.

07/28/2011 4300 3 CERTIFICATE

OF SERVICE OF PLTFS' PETITION FOR APPROVAL OF SETTLEMENT OF MINORS' ACTIONS UPON GAIL A. MYERS, ESQ., KATHY K. CONDO, ESQ., ERIN WINDLE MCDOWELL, ESQ., RICHARD HOSKING, ESQ. AND JAMES C. SWETZ, ESQ. VIA FIRST CLASS MAIL ON 7-27-2011.

07/28/2011 4300 4 CERTIFICATE

OF SERVICE OF JOINT MOTION TO FILE PETITION FOR APPROVAL OF SETTLEMENT OF MINORS' ACTIONS UNDER SEAL UPON GAIL A. MYERS, ESQ., KATHY K. CONDO, ESQ., ERIN WINDLE MCDOWELL, ESQ., RICHARD HOSKING, ESQ. AND JAMES C. SWETZ, ESQ. VIA FIRST CLASS MAIL ON 7-27-2011

08/11/2011 4385 1 MOTION AND ORDER

[PROPOSED] SCHEDULING) THAT UPON CONSIDERATION OF THE JOINT MOTION FOR SCHEDULING ORDER, THIS COURT HEREBY SCHEDULES A HEARING IN CLOSED COURT CHAMBERS ON (I) PLTFS' PETITION FOR APPROVAL OF SETTLEMENT OF MINORS' ACTIONS PURSUANT TO PA R.C.P. 2039 AND LOCAL RULE 2039.1 AND (II) THE JOINT MOTION TO FILE PETITION FOR APPROVAL OF SETTLEMENT OF MINORS' ACTIONS UNDER SEAL FOR WEDNESDAY 08-24-2011, OR AS SOON THEREAFTER AS SUITS THE CONVENIENCE OF THE COURT. HEARING TO BE HELD 08-26-2011, AT 11:00 A.M. POZONSKY, J (JOINT MOTION FOR SCHEDULING HEARING)

Judgment Summary

Judgment sq.

Judgment Date

Judgment Text

Party Details

Judgment Amt.

Judgment Code.

(C)orp or (P)erson. C

CERTIFICATE OF SERVICE

I, Frederick N Frank, Esquire, hereby certify that a true and correct copy of the foregoing PROPOSED INTERVENORS' JOINT PETITION FOR A HEARING was served upon the following, this 7th day of November 2011, via the manner indicated below

The Honorable Paul Pozonsky, Judge
Washington County Court of Common Pleas, Civil Division
Washington County Courthouse 1 South Main Street
Suite 1004
Washington, PA 15301
(via hand delivery)

Gail A Myers, Esquire
400 Waterfront Dr
Pittsburgh, PA 15222
(Counsel for Pennsylvania Department of
Environmental Protection)
(via facsimile)

Kathy K Condo-Caritis, Esquire
Two Gateway Center, 8th Floor
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(Counsel for Williams Gas/Laurel Mountain
Midstream)
(via hand delivery)

Erin Windle McDowell, Esquire
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L P & MarkWest Energy Group, L.L C)
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James C. Swetz, Esquire
K & L Gates, L L.P
K & L Gates Center
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Pittsburgh, PA 15222
(Counsel for Range Resources Corporation)
(via hand delivery)

Peter Villari, Esquire
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Conshohocken, PA 19428
(Counsel for Plaintiffs)
(via facsimile)



Frederick N Frank, Esquire
Attorneys for PG Publishing Company,
d/b/a The Pittsburgh Post-Gazette

VERIFICATION

I, Don Hopey, a reporter for the Pittsburgh Post-Gazette, verify that I am authorized to execute this verification upon behalf of the Proposed Intervenor and that the statements made in the within Proposed Intervenor's Joint Petition for a Hearing are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

11-4-11
Date

Don Hopey
Don Hopey

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W,

Plaintiffs,

vs

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L L.C , AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendant.

No C-63-CV-201003954

ORDER OF COURT

NOW, to wit, this _____ day of _____, 2011, after consideration of the
Proposed Intervenor's Joint Petition for a Hearing, it is hereby ORDERED, ADJUDGED and
DECREED that an evidentiary hearing in this matter shall be scheduled for the _____ day of
_____, 2011 at _____ A M /P.M before The Honorable Paul Pozonsky

BY THE COURT

_____, J

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

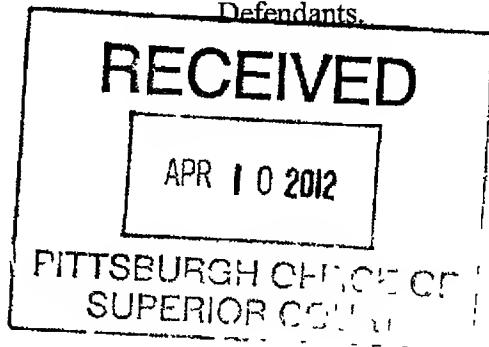
STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W

Plaintiffs,

vs

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P., MARKWEST ENERGY
GROUP, L L C , AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendants.



No C-63-CV-201003954

**PROPOSED INTERVENORS'
JOINT BRIEF IN SUPPORT OF
PG PUBLISHING COMPANY'S
AND OBSERVER PUBLISHING
COMPANY'S RIGHT TO INTERVENE**

Counsel of Record for Proposed Intervenors:

Frederick N Frank, Esquire
Pa I D #10395

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Company, d/b/a Observer Reporter*

2341235 WOA 2012

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<i>Commonwealth v Martinez</i> , 917 A 2d 856 (Pa Super 2007)	6
<i>Hutchinson v Luddy</i> , 581 A 2d 578 (Pa Super 1990)	5, 8
<i>Hutchinson by Hutchinson v Luddy</i> , 611 A 2d 1280 (Pa Super 1992)	6, 8
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IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W,

Plaintiffs,

vs

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P., MARKWEST ENERGY
GROUP, L L.C , AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendants

No C-63-CV-201003954

**PROPOSED INTERVENORS' JOINT BRIEF IN SUPPORT OF PG PUBLISHING
COMPANY'S AND OBSERVER PUBLISHING COMPANY'S RIGHT TO INTERVENE**

I. STATEMENT OF FACTS

The matter before the Court arises from the joint petition of the PG Publishing Company, d/b/a The Pittsburgh Post-Gazette ("Post-Gazette") and Observer Publishing Company, d/b/a Observer Reporter ("Observer Reporter") (collectively "Proposed Intervenor") to intervene and open the record in this proceeding

On May 27, 2010, Stephanie and Chris Hallowich (collectively "Hallowichs") commenced this action by a praecipe to issue a writ of summons against Range Resources Corporation, Williams Gas/Laurel Mountain Midstream, MarkWest Energy Partners, L P , MarkWest Energy Group, L L C (collectively "Defendants") and the Pennsylvania Department of Environmental Protection ("DEP")

As acknowledged in the Defendants' Joint Brief in Opposition to PG Publishing Company's and the Observer Publishing Company's Petition to Intervene and Motion to Unseal Record ("Defendants' Joint Brief in Opposition"), a settlement was executed in late June 2011 between the Hallowichs, the Hallowichs' two minor children (collectively "Plaintiffs"), and the Defendants. On July 28, 2011, the Hallowichs filed a Petition for Approval of Settlement of Minors' Actions Pursuant to Pa R.C.P. 2039¹ and Local Rule 2039.1 ("Petition for Approval of Settlement of Minors' Actions") asking this Court to approve a settlement with the Defendants, which was required as the Hallowichs' two minor children (collectively "Children") are parties to the settlement agreement. On the same date, a Joint Motion to File Petition for Approval of Settlement of Minors' Actions under Seal ("Joint Motion to Seal") was filed by the Hallowichs.² Upon consideration of these pleadings, the Court scheduled a hearing in closed court chambers for either August 24, 2011 or August 26, 2011.³

On August 23, 2011,⁴ the Court held a hearing on the Petition for Approval of Settlement of Minors' Actions and the Joint Motion to Seal. Before the hearing commenced, upon noticing two reporters for the Post-Gazette in the courtroom, a court official proceeded into the Court's chambers and informed the Court of their presence. After doing so, the court official proceeded

¹ Pa R C P 2039 provides that "[n]o action to which a minor is a party shall be compromised, settled or discontinued except after approval by the court pursuant to a petition presented by the guardian of the minor."

² It should be noted that due to the Court's sealing of the record in the above-captioned matter, Proposed Intervenor have been unable to gain access to the full docket in the underlying matter. Proposed Intervenor only have access to a partial copy of the docket in the underlying matter, dated August 23, 2011, attached as Exhibit "A."

³ As stated *supra*, Proposed Intervenor only have access to a partial docket, dated August 23, 2011, which states in the "Event Summary," under August 11, 2011:

"Upon consideration of the Joint Motion for Scheduling Order, this Court hereby schedules a hearing in closed court chambers on (I) [Petition for Approval of Settlement of Minors' Actions] and (II) [Joint Motion to Seal] for Wednesday, 08-24-2011, or as soon thereafter as suits the convenience of the Court. Hearing to be held 08-26-2011, at 11:00 a.m."

See Exhibit "A."

Due to the sealing of the record, and the ambiguity in the docket, Proposed Intervenor are uncertain when the hearing was scheduled to occur.

⁴ Proposed Intervenor are unaware of any order of court that re-scheduled the hearing for August 23, 2011, or any reason as to why the hearing was held on August 23, 2011.

back into the courtroom and informed the Plaintiffs, Plaintiffs' Attorneys, Defendants and Defendants' Attorneys to follow him into the Court's chambers. Despite Defendants' claims in Defendants' Joint Brief in Opposition, the Court never stated the confidential nature of the proceedings, as the Court was not present in the courtroom at any time during the incident at issue. The proceedings had yet to start before the court official moved the parties into chambers.

Contrary to the Defendants' assertions in the Defendants' Joint Brief in Opposition, the reporters for the Post-Gazette did not subsequently attempt to "follow the parties into chambers," rather the reporters proceeded into the outer office of the Court's chambers and asked the court official if they could enter the chambers. When the court official denied their request, the reporters informed the court official that they were objecting to the closing of the court proceeding on behalf of the Post-Gazette. Upon hearing this, the court official went into the chambers and returned shortly after to inform the reporters that the Post-Gazette's objection had been noted on the official record by the Court. *See* Post-Gazette's Petition to Intervene and Motion to Unseal Record, pp. 13 - 15.

After holding the closed court proceeding, the Court entered an Order of Court, dated August 23, 2011, attached as Exhibit "B," approving the settlement as to the minors' claims and sealing the record "indefinitely in its entirety." The Post-Gazette reporters were not provided with a copy of the Order at that time. The Post-Gazette only obtained a copy of the Order when its counsel obtained it from the Prothonotary's office on August 24, 2011. On August 31, 2011, the Post-Gazette served its Petition to Intervene and Motion to Unseal Record on the parties for presentation on September 6, 2011. In advance of the scheduled presentation date, counsel for the Hallowichs and the DEP both sent letters to the Court stating that they were taking no

position on the Post-Gazette's Petition to Intervene and Motion to Unseal Record See Exhibits "C" and "D "

In response to the Post-Gazette's petition, the Court entered an order on September 6, 2011 scheduling argument on the petition for October 4, 2011 (attached as Exhibit "E") and directing that twenty days before the argument "all parties seeking to seal the record in the above-captioned case shall serve on all other parties, including the Proposed Intervenor, and the Court, an answer to Intervenor's motion setting forth the basis in law and in fact why the record should be sealed." The Observer Reporter then filed its separate Petition to Intervene and Joinder in the PG Publishing Company's Motion to Unseal Records and the Court scheduled argument on the Observer Reporter's petition at the previously scheduled October 4, 2011 argument

Consistent with their correspondence to the Court, neither the Hallowichs nor the DEP filed an answer or any response to the Proposed Intervenor's petitions to intervene and motions to unseal the record The Defendants did not file an answer to the motions as directed by the Court, but filed Defendants' Joint Brief in Opposition instead In response, Proposed Intervenor's filed Intervenor's Joint Brief in Support of PG Publishing Company's and Observer Publishing Company's Petition to Intervene and Motion to Unseal Record ("Proposed Intervenor's Joint Brief in Support").

The Defendants' Joint Brief in Opposition did not challenge the Proposed Intervenor's right to intervene in the matter before the Court Defendant's Joint Brief in Opposition only addressed the Proposed Intervenor's request to unseal the records in the above-captioned case.⁵

⁵ In addition to the Defendants' acknowledgment, *sub silentio*, of the Proposed Intervenor's right to intervene in Defendants' Joint Brief in Opposition, in footnote 2 of the Defendant's Joint Brief in Opposition, the Defendants indicate that the parties had agreed to lift the seal for all filings except for the settlement agreement Indeed, counsel for Defendant, Range Resources, emailed counsel for the Post-Gazette on September 12, 2011, indicating that he

At the October 4, 2011 argument before the Court on the Post-Gazette's and the Observer Reporters' Petitions (collectively "Joint Petition to Intervene and Motion to Unseal Record"), the Court raised the issue of the Proposed Intervenors' right to intervene. The Court requested that all parties file briefs regarding the right to intervene by November 7, 2011.

II. ARGUMENT

The Court should grant the Joint Petition to Intervene and Motion to Unseal Record, as the Proposed Intervenors have the right to intervene in the above-captioned action.

A. Governing Legal Standards

Intervention is allowed under Rule 2327 of the Pennsylvania Rules of Civil Procedure, which states

"At any time during the pendency of an action, a person not a party thereto shall be permitted to intervene therein, subject to these rules if

(1) the entry of a judgment in such action or the satisfaction of such judgment will impose any liability upon such person to indemnify in whole or in part the party against whom judgment may be entered, or

(2) such person is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof, or

(3) such person could have joined as an original party in the action or could have been joined therein, or

(4) the determination of such action may affect any legally enforceable interest of such person whether or not such person may be bound by a judgment in the action."

The Superior Court has held that the media asserting its constitutional and common law right of access to judicial records has "a legally enforceable interest" pursuant to Pa R C P. 2327(4). *See Hutchinson v Luddy*, 581 A 2d 578, 581 – 82 (Pa Super 1990), *rev'd on other grounds*, 594 A 2d 307 (Pa 1991).

was circulating a joint motion and proposed order to amend the Court's August 23, 2011 order to lift the seal on certain documents and asked the Post-Gazette to join the joint motion. The joint motion was presented to the Court on October 4, 2011, but the Court declined to enter the motion because the Plaintiffs had not consented.

Generally, members of the media are allowed to intervene when seeking to open a sealed record. See *Capital Cities Media, Inc v Toole*, 483 A 2d 1339, 1344 (Pa 1984) (“In Pennsylvania there is a procedure for obtaining expedited review which affords complete relief where an alleged abridgment of the rights of the media is at issue. The first step in this procedure would have been for the applicants to petition the trial court to intervene for the purpose of challenging the legality of the [orders]”)

Caselaw is replete with instances where members of the media have sought to intervene and access a closed record or judicial proceeding. The appellate courts consistently have held intervention was proper, even in instances where the appellate court ultimately found that the members of the media were not allowed access to the sealed record. See *Commonwealth v Upshur*, 924 A 2d 642 (Pa 2007); *Commonwealth v Long*, 922 A 2d 892 (Pa 2007); *Commonwealth v Fenstermaker*, 530 A 2d 414 (Pa 1987), *Commonwealth v Hayes*, 414 A 2d 318 (Pa 1980), *Commonwealth v Martinez*, 917 A 2d 856 (Pa Super 2007); *Hutchinson by Hutchinson v Luddy*, 611 A 2d 1280 (Pa Super 1992), *P G Pub Co v Com By and Through Dist Atty of Erie County*, 566 A 2d 857 (Pa Super 1989), and *Commonwealth v Buehl*, 462 A.2d 1316 (Pa Super 1983)

The filing of a petition to intervene in order to open proceedings and records by the news media, in a civil proceeding, is the appropriate means of raising assertions of public rights of access. It is so well established that this Court should grant the Proposed Intervenors status as intervenors

B. The Court Should Grant the Joint Petition to Intervene and Motion to Unseal Record, Because the Proposed Intervenors are Allowed to Intervene as a Matter of Law

At the time of argument, this Court raised the issue of whether intervention may be allowed in the instant matter, in light of the language of Pa R C P 2327, which allows intervention "at any time during the pendency of an action " As hereafter set forth, caselaw is clear that where the media seeks to intervene to open a judicial record the action remains pending because the order continues to impact the constitutional and common law rights of the media

Alternatively, Proposed Intervenors' assert that the issue was raised prior to the sealing of the record, but they were not afforded their full opportunity to be heard, as required under caselaw.

i. Proposed Intervenors are Allowed to Intervene After the Entrance of an Order of Court Sealing the Record

In *Capital Cities Media, Inc* , the Supreme Court stated "We recognize the legitimacy and importance of the interest of the news media in judicial proceedings " See *Capital Cities Media, Inc* , 483 A 2d at 1344 The media's right of expression must necessarily include the right to be heard when that interest is adversely affected " For the purpose of challenging the legality of an order closing judicial proceedings or sealing the record, the proper procedure is for the media applicant to petition the trial court to intervene *Id*

As stated *supra*, Pa R C P 2327 states "At any time during the pendency of an action, a person not a party thereto shall be permitted to intervene therein, subject to these rules if (4) the determination of such action may affect any legally enforceable interest of such person whether or not such person may be bound by a judgment in the action "

The Superior Court has found that even if the underlying action has concluded or been dismissed in a proceeding during which the trial court ordered parts of the judicial record sealed, the controversy is not moot, as the judicial records remained sealed to the public. See *Commonwealth v Frattarola*, 485 A 2d 1147, 1149 – 50 (Pa. Super 1984) As such, it is a “controversy capable of repetition, yet evading review” *Id* at 1149 Stating that closure orders are often not subject to review until after the underlying action is completed, the Superior Court in *Frattarola* stated

“To deny review because those underlying proceedings have come to an end would make it difficult for this court ever to review orders that are of great importance to fundamental rights, yet that are by their nature often of short duration Thus, we believe that the order of the court closing the hearing and sealing the record is one capable of repetition in other cases, yet one that evades review in the specific instance”
Id at 1149 – 50

See also *Buehl*, 462 A.2d at 1319.

Pennsylvania has recognized the media’s right of access to civil proceedings under the First Amendment of the United States Constitution, as well as under the Pennsylvania Constitution and at common law See *Hutchinson*, 581 A 2d at 582 (discussing First Amendment analysis applied to attempts to achieve closure), see also *Hutchinson by Hutchinson*, 611 A 2d at 1289 – 91 It is the judicial policy of Pennsylvania to defer to the United States Court of Appeals for the Third Circuit concerning the interpretation of federal questions See *Commonwealth v Bowden*, 838 A 2d 740 (Pa 2003)

In *Pansy v Borough of Stroudsburg*, 23 F 3d 772 (3rd Cir 1994), the United States Court of Appeals for the Third Circuit found that the procedural device of permissive intervention is appropriately used to enable a newspaper-litigant who was not an original party to an action to

challenge orders sealing the record in an action⁶ The Third Circuit reversed the district court's denial of intervention as untimely due to the filing of the petition to intervene six and a half months after the date of the settlement and entrance of the confidentiality order The Third Circuit found that intervention by a party for the limited purpose of modifying a confidentiality order is appropriate, even after the underlying dispute has been settled⁷ *Id* at 778 – 79 As stated in *Pansy*, “intervention to challenge confidentiality orders may take place long after a case had been terminated.” *Id* at 779. Further, in denying the contention that litigation of the ancillary issue of intervention would work a prejudice on the original parties, the Third Circuit stated, “to preclude third parties from challenging a confidentiality order once a case had been settled would often make it impossible for third parties to have their day in court to contest the scope or need for confidentiality ”⁸

In the instant matter, Proposed Intervenors are newspaper-litigants, who were not an original party to the underlying action, and who seek to challenge the sealing of the record in this matter In addition, Proposed Intervenors sought to intervene through their objection to the Court on the day that the Court entered the sealing order in the above-captioned matter, as discussed *infra* After acquiring the August 23, 2011 Order of Court from the Washington

⁶ The Third Circuit, in *Pansy*, states that “confidentiality order,” which is the term of art used by the *Pansy* Court, is used to “denote any court order which in any way restricts access to or disclosure of any form of information of proceeding, including but not limited to ‘sealing orders ’” *Pansy*, 23 F 3d at 777, n 1

⁷ By way of reference, the Third Circuit in *Pansy* cited two cases in which intervention was not found to be untimely despite a extended period of time between the settlement of the action and the time the intervention was sought In these cases, intervention was allowed, even though intervention was sought three and two years, respectively, after the settlement of the action See *Pansy*, 23 F 3d at 780, citing *United Nuclear Corp v Cranford Ins Co*, 905 F 2d 1424, 1427 (10th Cir 1990), *cert denied*, 498 U S 1073 (1991) and *Beckman Indus, Inc v International Ins Co*, 966 F 2d 470, 471, 473 (9th Cir 1992), *cert demed*, 506 U S 868 (1992)

⁸ Caselaw throughout the United States is replete with instances where members of the media are granted intervention after the settlement of the underlying claims and subsequent sealing of the record See *Van Etten v Bridgestone/Firestone, Inc*, 117 F Supp 2d 1375 (S D Ga 2000), *vacated on other grounds*, 263 F 3d 1304 (11th Cir 2001)(intervention allowed more than nine months after settlement and entrance of sealing order), *Davis v Jennings*, 405 S E 2d 601 (S C 1991) (intervention allowed when motion to intervene was filed less than four weeks after record was sealed), and *C L v Edson*, 409 N W 2d 417 (Wis Ct App 1987) (intervention allowed four months after settlement and entrance of sealing order)

County Prothonotary on August 24, 2011, the Post-Gazette served their Petition to Intervene on August 31, 2011. Subsequently, due to the Labor Day holiday and the notice requirements of the this Court's local rules, the Post-Gazette presented their Petition on the first available day that it could be heard by the Court, September 6, 2011.

Moreover, it is axiomatic that a Pennsylvania Rule of Civil Procedure cannot frustrate either a United States or Pennsylvania constitutional claim. As such, the Proposed Intervenor has the right to intervene as a newspaper-litigant seeking to modify a sealing order, the issue being a controversy capable of repetition, yet one that will continue to evade review. Proposed Intervenor should be granted the right to intervene in the above-captioned matter.

ii. Proposed Intervenor is Allowed to Intervene Because the Post-Gazette's Timely Objection Was Made During the Pendency of the Action

The Pennsylvania Supreme Court has held that where a member of the media seeks access to a judicial record, the media must be given an opportunity to be heard. After hearing on the media's request, the record must contain an articulation of the factors taken into consideration in determining that the record should be sealed. *See Fenstermaker*, 530 A.2d at 421.

The Superior Court has determined that when a timely objection is made to the granting of a motion to close, the trial court must give the objectors a reasonable opportunity to be heard prior to the effectiveness of the closure order. *See Buehl*, 462 A.2d at 1321 - 22. In *Buehl*, counsel for the criminal defendant asked the trial court to close a hearing, which was granted by the trial court. *Id.* at 1318. During the now-closed court proceeding, a news reporter entered the courtroom and requested that the media have access to the proceeding. *Id.* After the trial court

stated that it had already made its decision and denied the news reporters request, the news reporter stated to the trial court "for the record, our attorney will be in touch with the Court." *Id* Subsequently, the news reporter was escorted from the courtroom *Id*

In finding that a timely objection was made by the news reporter, the Superior Court, in *Buehl*, held that the trial court did not provide a sufficient opportunity for review of the public's first amendment rights. The hearing just had begun and there was no reason why a recess could not have been taken to allow counsel for the media to argue against closure. *Id* at 1322. The Superior Court found further that the trial court failed to articulate the reasons for closure on the record. *See Buehl*, 462 A 2d at 1322 – 23.

The Superior Court determined that the trial court's filing of an opinion which articulated the reasons for closure, only after appeal by the proposed intervenor, "cannot satisfy the court's obligation to articulate its reasons for ordering closure, for it comes too late. It is in essence an after-the-fact, *ex parte*, statement. If the public's first amendment right of access is to be effectively protected, the court must state *before* ordering closure why it considers alternatives to closure unsatisfactory. Only in that way will those who oppose closure be able to respond." *Id* at 1323 (emphasis in original)

In the matter before the Court, no opportunity for the reporters to be heard was allowed. Upon noticing reporters in the courtroom, a court official asked the Plaintiffs, Plaintiffs' Attorneys, Defendants and Defendants' Attorneys to follow him into the Judge's chambers. Rather than explain on the record why the proceeding was being closed, or allow the reporters to be heard through counsel, the Court, through the court official denied the reporters request without any explanation or hearing. Subsequently, the reporters noted their objection to the

closure, especially without a hearing in which they could be heard through counsel, to the court official, who assured the reporters it would be put on the official record ⁹

Thus, before the record was sealed, a timely objection was made during the "pendency of the action" which effectively acted as a request to intervene in the above-captioned proceeding. Rule 126 of the Pennsylvania Rules of Civil Procedure, "Liberal Construction and Application of the Rules," permits liberal construction of the rules "to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable" ¹⁰. In view of Pa R C P 126, one cannot exalt form over substance in regards to the critical constitutional rights which are involved with the issues at hand.

⁹ As the proceedings in the above-captioned case have been sealed in their entirety, the Proposed Intervenor are unable to verify that the Post-Gazette's objection was noted on the official record as requested.

¹⁰ Pa R C P 126 provides "The rules shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable. The court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties."

As the Court has not articulated a countervailing interest that requires closure of the record, did not state before closure why it considers alternatives to closure unsatisfactory, and did not hold a hearing on Proposed Intervenors' timely objection before closure, Proposed Intervenors are allowed to intervene and a hearing must be held on their objections to the closure of the record in this proceeding

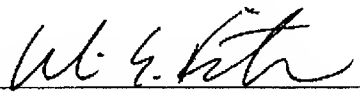
Respectfully submitted,

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Full Document Print for Case #:

C-63-CV-201003954

Case Title: HOLLOWICH VS RANGE
Case Type: SUMMONS-CIVIL ACTION
Status: CLOSED

Court of Common Pleas of Washington County
Commonwealth of Pennsylvania

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Full Docket Print for Case #:

C-63-CV-201003954

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Event Summary

Full Docket Print for Case #:
05/27/2010 4581 4 SUMMONS-CIVIL ACTION
05/27/2010 4074 5 MOTION

C-63-CV-201003954

06/18/2010 4034 1 APPEARANCE OF

06/21/2010 4034 1 APPEARANCE OF

06/25/2010 4034 1 APPEARANCE OF

07/02/2010 4034 1 APPEARANCE OF

07/02/2010 4034 2 APPEARANCE OF

07/19/2010 4184 1 SERVED

08/11/2010 4299 1 RESPONSE

08/17/2010 4359 1 ORDER TO RECUSE JUDGE

08/20/2010 4289 1 BRIEF

TO STAY ALL RULES TO FILE COMPLAINT AND FOR LEAVE
OF COURT
TO CONDUCT PRE-COMPLAINT DISCOVERY IN THE NATURE
OF INFORMATION AND DOCUMENT PRODUCTION FOR THE PURPOSE OF
DRAFTING
AND SERVING A SUFFICIENT COMPLAINT, AND MOTION TO
STAY
PROCEEDING FOR A SUFFICIENT PERIOD TO ALLOW PLTF. TO CON-
DUCT DISCOVERY BY THE PLTFs.
GAIL A. MYERS ASSISTANT COUNSEL FOR COMMONWEALTH
OF PENN-
SYLVANIA, DEPARTMENT OF ENVIRONMENTAL
PROTECTION.
KATHY K CONDO, ESQ. ATTY FOR DEFT WILLIAMS
GAS/LAUREL
MOUNTAIN MIDSTREAM (NOTICE OF APPEARANCE)
ERIN MCDOWELL ATTY FOR MARK WEST ENERGY
PARTNERS, L.P. AND
MARK WEST ENERGY GROUP, L L C (NOTICE OF
APPEARANCE)
JAMES C. SWETZ OF THE LAW FIRM K&L GATES LLP ON
BEHALF OF
RANGE RESOURCES CORPORATION ("RANGE RESOURCES").
RICHARD W. HOSKING OF THE LAW FIRM K&L GATES LLP ON
BEHALF
OF THE DEFT'S RANGE RESOURCES CORPORATION ("RANGE RE-
SOURCES").
WRIT OF SUMMONS & MOTION FOR PRE-COMPLAINT
DISCOVERY ON
RANGE RESOURCES CORPORATION ON 6-8-2010 SERVED
MARKWEST
ENERGY PARTNERS, L P. AND MARKWEST ENERGY GROUP,
L L C. ON
6-14-2010. SERVED PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL
PROTECTION ON 6-10-2010 BY THE ALLEGHENY COUNTY
SHERIFF'S
OFFICE. SERVED WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM ON
6-16-2010 BY THE ALLEGHENY COUNTY SHERIFF'S OFFICE
IN OPPOSITION TO PLTFs' MOTION TO STAY ALL RULES TO
FILE
COMPLAINT AND FOR LEAVE OF COURT TO CONDUCT
PRE-COMPLAINT
DISCOVERY IN THE NATURE OF INFORMATION AND
DOCUMENT PRO-
DUCTION FOR THE PURPOSE OF DRAFTING AND SERVING A
SUFFI-
CIENT COMPLAINT, AND MOTION TO STAY PROCEEDING FOR
A
SUFFICIENT PERIOD TO ALLOW PLTF. TO CONDUCT
DISCOVERY
BY MARKWEST ENERGY PARTNERS, LP AND MARKWEST
ENERGY GROUP,
LLC
THAT MOTION REASSIGNED TO. PAUL POZONSKY. SEE
PAPER.
O'DELL SENECA, P.J
IN SUPPORT OF MOTION TO STAY ALL RULES TO FILE
COMPLAINT AND

Full Docket Print for Case #:
08/20/2010 4289 1 BRIEF

C-63-CV-201003954

FOR LEAVE OF COURT TO CONDUCT PRE-COMPLAINT
DISCOVERY IN
THE NATURE OF INFORMATION AND DOCUMENT
PRODUCTION FOR THE
PURPOSE OF DRAFTING AND SERVING A SUFFICIENT
COMPLAINT, AND
MOTION TO STAY PROCEEDING FOR A SUFFICIENT PERIOD
TO ALLOW
PLTFS. TO CONDUCT DISCOVERY BY PLTFS
OF SERVICE OF PLTFS ' BRIEF IN SUPPORT OF MOTION TO
STAY
ALL RULES TO FILE COMPLAINT AND FOR LEAVE OF COURT
TO
CONDUCT PRE-COMPLAINT DISCOVERY IN THE NATURE OF
INFORMA-
TION AND DOCUMENT PRODUCTION FOR THE PURPOSE OF
DRAFTING
AND SERVING A SUFFICIENT COMPLAINT, AND MOTION TO
STAY
PROCEEDING FOR A SUFFICIENT PERIOD TO ALLOW PLTFS.
TO
CONDUCT DISCOVERY UPON GAIL A. MYERS, ESQ. VIA FIRST
CLASS
MAIL ON 8-19-2010
OF DEFT. RANGE RESOURCES CORPORATION IN OPPOSITION
TO
PLTFS ' MOTION FOR PRE-COMPLAINT DISCOVERY.
OF DEFT. WILLIAMS GAS/LAUREL MOUNTAIN MIDSTREAM IN
OPPOSI-
TION TO PLTFS ' MOTION FOR PRE-COMPLAINT DISCOVERY
RESPONSE IN OPPOSITION TO PLTFS ' MOTION TO STAY ALL
RULES
TO FILE COMPLAINT AND FOR LEAVE OF COURT TO
CONDUCT PRE-
COMPLAINT DISCOVERY IN THE NATURE OF INFORMATION
AND DOCU-
MENT PRODUCTION FOR THE PURPOSE OF DRAFTING AND
SERVING A
SUFFICIENT COMPLAINT, AND MOTION TO STAY
PROCEEDING FOR A
SUFFICIENT PERIOD TO ALLOW PLTF TO CONDUCT
DISCOVERY BY
THE DEFT. MARKWEST ENERGY PARTNERS, LP AND
MARKWEST ENERGY
GROUP, LLC.
THAT UPON CONSIDERATION OF THE PLTFS ' MOTION FOR
LEAVE OF
COURT TO CONDUCT PRE-COMPLAINT DISCOVERY IN THE
NATURE OF
INFORMATION AND DOCUMENT PRODUCTION TO DRAFT
AND SERVE A
SUFFICIENT COMPLAINT, AND MOTION TO STAY
PROCEEDING FOR A
SUFFICIENT PERIOD TO ALLOW PLTF. TO CONDUCT
DISCOVERY, IT
IS HEREBY ORDERED THAT PLTFS ' MOTIONS ARE DENIED
SEE
PAPER. PLTFS., STEPHANIE HALLOWICH AND CHRIS
HALLOWICH,
ARE HEREBY ORDERED TO FILE THEIR CIVIL COMPLAINT
PURSUANT
TO THE PENNSYLVANIA RULES OF CIVIL PROCEDURE
POZONSKY, J COPIES SENT ON 11-18-2010.

08/20/2010 4300 2 CERTIFICATE

08/27/2010 4289 1 BRIEF

08/27/2010 4289 2 BRIEF

08/27/2010 4251 3 SUPPLEMENTAL

11/17/2010 4208 1 ORDER

Full Docket Print for Case #:

C-63-CV-201003954

07/11/2011 4101 1 PRABCIPE TO DISCONTINUE

AND SUIT DISMISSED WITH PREJUDICE WITH ALL PARTIES
TO BEAR
THEIR OWN COSTS BY PETER M. VILLARI, ATTORNEY FOR
PLAINTIFFS

07/28/2011 4130 1 PETITION

FOR APPROVAL OF SETTLEMENT OF MINORS' ACTIONS
PURSUANT TO

07/28/2011 4074 2 MOTION

PA R.C.P. 2039 AND LOCAL RULE 2039.1 BY PLTFs.

(JOINT) TO FILE PETITION FOR APPROVAL OF MINORS'
ACTIONS
UNDER SEAL BY PLTFs.

07/28/2011 4300 3 CERTIFICATE

OF SERVICE OF PLTFs' PETITION FOR APPROVAL OF
SETTLEMENT

OF MINORS' ACTIONS UPON GAIL A. MYERS, ESQ., KATHY K.
CONDO, ESQ., ERIN WINDLE MCDOWELL, ESQ., RICHARD
HOSKING,
ESQ. AND JAMES C. SWETZ, ESQ. VIA FIRST CLASS MAIL ON
7-27-2011.

07/28/2011 4300 4 CERTIFICATE

OF SERVICE OF JOINT MOTION TO FILE PETITION FOR
APPROVAL OF

SETTLEMENT OF MINORS' ACTIONS UNDER SEAL UPON GAIL
A. MYERS,
ESQ., KATHY K. CONDO, ESQ., ERIN WINDLE MCDOWELL,
ESQ.,
RICHARD HOSKING, ESQ. AND JAMES C. SWETZ, ESQ. VIA
FIRST
CLASS MAIL ON 7-27-2011.

08/11/2011 4385 1 MOTION AND ORDER

[PROPOSED] SCHEDULING) THAT UPON CONSIDERATION OF
THE JOINT

MOTION FOR SCHEDULING ORDER, THIS COURT HEREBY
SCHEDULES A

HEARING IN CLOSED COURT CHAMBERS ON (I) PLTFs'
PETITION FOR
APPROVAL OF SETTLEMENT OF MINORS' ACTIONS
PURSUANT TO PA.

R.C.P. 2039 AND LOCAL RULE 2039.1 AND (II) THE JOINT
MOTION

TO FILE PETITION FOR APPROVAL OF SETTLEMENT OF
MINORS'

ACTIONS UNDER SEAL FOR WEDNESDAY, 08-24-2011, OR AS
SOON

THEREAFTER AS SUITS THE CONVENIENCE OF THE COURT.
HEARING

TO BE HELD 08-26-2011, AT 11:00 A.M. POZONSKY, J.

(JOINT MOTION FOR SCHEDULING HEARING)

Judgment Summary

Judgment sq

Judgment Date

Judgment Text

Party Details

Judgment Amt.

Judgment Code:

(C)orp or (P)erson C

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W

Plaintiff,

vs

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P., MARKWEST ENERGY
GROUP, L.L.C., AND PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

Defendant.

No. 2010-3954

[Signature]
PROTHONOTARY
WASHINGTON CO. PA.

2011 AUG 23 PM 12:20

FILED

Order

AND NOW, on this 23rd day of August, 2011, upon consideration of the Joint Motion to File Petition for Approval of Minors' Actions Under Seal, and the Confidential Agreement attached thereto, it is hereby **ORDERED** that said Motion is **GRANTED** and that the file under case number 2010-3954 be **SEALED** indefinitely in its entirety

BY THE COURT:

[Signature]
J Paul Pozonsky





VILLARI
BRANDES
KLINE

ATTORNEYS AT LAW

Peter M. Villari, Esq.
Email: pvillan@villarilaw.com

Hon. Paul Pozonsky
Washington County Court of Common Pleas
1 South Main Street, Suite 1004
Washington, PA 15301

August 31, 2011

RE: **Hollowich v. Williams Gas/Laurel Mountain, et. al.,**
Docket No. 2010-3954

Dear Judge Pozonsky,

Plaintiffs' counsel is in receipt of PG Publishing Company's Petition to Intervene and Motion to Unseal Record in the above captioned matter, filed on August 31, 2011, including notice of hearing before your Honor on September 6, 2011 at 9 15 a.m. Please be advised that Plaintiffs are taking no position and will therefore defer to the Court's discretion regarding said Petition and Motion

Very truly yours,

Peter M. Villari, Esq

cc: Frederick N. Frank, Esq
Gail A. Meyers, Esq
Erin Windell McDowell, Esq
Kathy K. Condo, Esq
James C. Swetz, Esq



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GOVERNOR'S OFFICE OF GENERAL COUNSEL

September 2, 2011

Southwest Regional Counsel

412-442-4262

Fax: 412-442-4267

Via Facsimile and First Class Mail

The Honorable Paul Pozonsky
Washington County Court of Common Pleas
1 South Main Street, Suite 1004
Washington, PA 15301

Re: *Stephame Hallowich and Chris Hallowich v Range Resources Corporation, et al*
Docket No 10-3954

Dear Judge Pozonsky

I am writing to advise you that the Department has been notified that on Tuesday, September 6, 2011, P.G. Publishing Company intends to present a Petition to Intervene and Motion to Unseal Record in the above referenced matter. The Department neither opposes nor supports P.G. Publishing Company's Petition to Intervene and Motion to Unseal Record. Therefore, the Department does not intend to attend the presentation of the Motion before Motions Court on September 6, 2011.

Sincerely,

Gail A. Myers
Assistant Counsel

cc: Frederick N. Frank, Esquire (via facsimile)
Kathy K. Condo, Esquire (via facsimile)
Erin W. McDowell, Esquire (via facsimile)
Peter Villari, Esquire (via facsimile)
Richard Hosking, Esquire (via facsimile)
Alan J. Eichler, OGM Pittsburgh
Jack Crook, OGM Pittsburgh



IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W,

Plaintiffs,

vs.

No. C-63-CV-201003954

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P., MARKWEST ENERGY
GROUP, L.L.C., AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendant

ORDER OF COURT

NOW, to wit, this 6th day of September, 2011, after consideration of the PG

Publishing Company's Petition to Intervene and Motion to Unseal Records, it is hereby ORDERED,

ADJUDGED and DECREED that the PG Publishing Company ("Intervenor") is ^{ARGUMENT}permitted to

~~intervene and a hearing~~ shall be held on the PG Publishing Company's Motion to Unseal Records on

the 4th day of October, 2011 at 11:00 A.M./P.M. before The

Honorable Paul Pozonsky. Twenty days prior to said hearing, all parties seeking to seal the record in

the above-captioned case shall serve on all other parties, including the ^{PROPOSED}Intervenor, and the Court an

answer to Intervenor's motion setting forth the basis in law and fact why the record should be sealed.

BY THE COURT:



CERTIFICATE OF SERVICE

I, Frederick N. Frank, Esquire, hereby certify that a true and correct copy of the foregoing
PROPOSED INTERVENORS' JOINT BRIEF IN SUPPORT OF PG PUBLISHING
COMPANY'S AND OBSERVER PUBLISHING COMPANY'S RIGHT TO INTERVENE was
served upon the following, this 7th day of November, 2011, via the manner indicated
below

The Honorable Paul Pozonsky, Judge
Washington County Court of Common Pleas, Civil Division
Washington County Courthouse 1 South Main Street
Suite 1004
Washington, PA 15301
(via hand delivery)

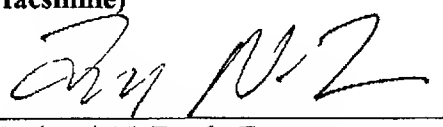
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(Counsel for Pennsylvania Department of
Environmental Protection)
(via facsimile)

Kathy K. Condo-Caritis, Esquire
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(Counsel for Williams Gas/Laurel Mountain
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L.P. & MarkWest Energy Group, L.L.C.)
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(Counsel for Plaintiffs)
(via facsimile)


Frederick N. Frank, Esquire
Attorneys for PG Publishing Company,
d/b/a The Pittsburgh Post-Gazette

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

STEPHANIE HALLOWICH AND CHRIS
HALLOWICH, H/W,

Plaintiffs,

v.

RANGE RESOURCES CORPORATION;
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM; MARKWEST ENERGY
PARTNERS, L P.; MARKWEST ENERGY
GROUP, L.L C ; and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants.

Docket No. 2010-3954

**DEFENDANTS' SUPPLEMENTAL
BRIEF IN OPPOSITION TO PG
PUBLISHING COMPANY'S AND THE
OBSERVER PUBLISHING
COMPANY'S PETITION TO
INTERVENE AND MOTION TO
UNSEAL RECORD**

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*Attorneys for Defendants MarkWest
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Energy Group, LLC*

2011/07/27 -7 PM 2:42 PM

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)
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) *Services Company, LLC and Laurel*
) *Mountain Midstream, LLC*

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IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
PREMISES LIABILITY ACTION – CIVIL CASE

STEPHANIE HALLOWICH AND CHRIS)	
HALLOWICH, H/W,)	
)	Docket No. 2010-3954
Plaintiffs,)	
)	
v.)	
)	
RANGE RESOURCES CORPORATION;)	
WILLIAMS GAS/LAUREL MOUNTAIN)	
MIDSTREAM; MARKWEST ENERGY)	
PARTNERS, L.P ; MARKWEST ENERGY)	
GROUP, L L.C.; and PENNSYLVANIA)	
DEPARTMENT OF ENVIRONMENTAL)	
PROTECTION,)	
)	
Defendants.)	

**DEFENDANTS' SUPPLEMENTAL BRIEF IN OPPOSITION TO PG PUBLISHING
COMPANY'S AND THE OBSERVER PUBLISHING COMPANY'S PETITION TO
INTERVENE AND MOTION TO UNSEAL RECORD**

Defendants Range Resources Corporation,¹ MarkWest Energy Partners, LP, MarkWest Energy Group, LLC, Williams Field Services Company, LLC, and Laurel Mountain Midstream, LLC (collectively, "Defendants") hereby submit this Supplemental Brief in Opposition to PG Publishing Company's and The Observer Publishing Company's Petition to Intervene and Motion to Unseal Record ("Supplemental Opposition Brief").

¹ Plaintiffs mistakenly named parent Range Resources Corporation in this action, as do the petitioners in their Petition to Intervene and Motion to Unseal. However, Range Resources-Appalachia, LLC, a subsidiary of Range Resources Corporation, operates in Washington County, Pennsylvania, not its parent, Range Resources Corporation

I. INTRODUCTION

On August 23, 2011, the Court correctly ordered that Plaintiffs' Petition for Approval of Settlement of Minors' Actions Pursuant to Pa. R.C.P. 2039 and Local Rule 2039.1 ("Orphans' Court Petition") be filed under seal at the joint request of adult plaintiffs Stephanie and Chris Hallowich ("the Hallowichs") and Defendants in accordance with the confidentiality provisions in their settlement agreement. As demonstrated in Defendants' initial Brief in Opposition,² Petitioners PG Publishing Company, d/b/a The Pittsburgh Post-Gazette ("the PPG") and the Observer Publishing Company, d/b/a The Observer Reporter ("the Observer") (collectively, "Petitioners") have failed to establish any basis for the Court to vacate its August 23, 2011 order granting the parties' Joint Motion to Seal. Put simply, the mere presence of minors in a case does not give the public a right of access to the terms of an out-of-court settlement agreement that would otherwise have been kept confidential.

The Court should also deny Petitioners' attempt to reopen this case for an additional reason: Petitioners have no right to intervene in these proceedings as their request comes too late.³ Petitioners did not file and serve their Petition to Intervene and Motion to Unseal Record ("Petition") until August 31, 2011, over seven weeks after the Hallowichs filed the July 11, 2011, voluntary dismissal of this action pursuant to the parties' settlement. The Court should

² See Defendants' Joint Brief in Opposition to PG Publishing Company's and The Observer Publishing Company's Petition to Intervene and Motion to Unseal Record, filed on September 20, 2011 ("Opposition Brief"). Defendants incorporate the arguments set forth in their initial Opposition Brief as if fully set forth herein.

³ At an October 4, 2011 hearing in connection with the Petition, the Court directed the parties to brief the threshold issue of whether the PPG and the Observer have a right to intervene in this matter pursuant to their Petition. Defendants respectfully submit this Supplemental Opposition Brief to address the issue of whether PPG and the Observer have a right to intervene in a matter that has been concluded.

therefore deny the Petition because Petitioners failed to file it while this action was still pending and instead filed it after this case was closed. Furthermore, allowing intervention at this late stage will unduly prejudice Defendants, the Hallowichs, and their children, all of whom have resolved this matter pursuant to a private, out-of-court settlement contract approved by this Court. This matter is now closed, and the Court should deny the Petition.

For the reasons set forth herein and in their initial Brief in Opposition, Defendants request that the Court: (i) DENY the Petition to Intervene pursuant to Rules 2327 and 2329(3) of the Pennsylvania Rules of Civil Procedure because Petitioners unjustifiably failed to intervene while this action was pending, and because permitting intervention at this late date would unduly burden, prejudice, and harass the parties in the performance of their settlement agreement and (ii) DENY the Motion to Unseal Record, because Petitioners have failed to establish any legal basis permitting them to gain access to the confidential terms of the parties' private settlement long after this case has been resolved and closed, as set forth more fully in Defendants' Opposition Brief

II. BRIEF STATEMENT OF FACTS

As the Court is aware,⁴ in late June of 2011, the parties in this matter executed a settlement agreement containing a mutual release of all existing and potential claims. Pursuant to this settlement agreement, on July 11, 2011, the Hallowichs filed a Praecipe for Discontinuance voluntarily dismissing all of their claims against Defendants with prejudice. With the discontinuance of this matter and the release of all existing and potential claims, this litigation ended, and the Court marked the case closed

⁴ Defendants respectfully direct the Court to the Statement of Facts contained in their initial Brief in Opposition filed on September 20, 2011 for a more complete discussion of the factual background in this case.

Once the settlement agreement was finalized and this case was closed, the settling parties agreed that a subsequent filing was required to obtain Court approval of the settlement as to the Hallowichs' minor children pursuant to Rule 2039 of the Pennsylvania Rules of Civil Procedure and Local Rule 2039.1 of the Washington County Court of Common Pleas. Accordingly, the parties consented to, and the Hallowichs filed on behalf of their minor children, the Orphans' Court Petition on July 28, 2011.⁵ Simultaneously with the Orphans' Court Petition, the parties filed a Joint Motion to Seal to prevent public disclosure of any confidential settlement terms outlined in the Orphans' Court Petition. On August 23, 2011, the Honorable Judge Paul Pozonsky held a closed hearing in chambers on the Orphans' Court Petition and Joint Motion to Seal and approved the settlement as to the Hallowichs' minor children. Judge Pozonsky then sealed the record pursuant to the parties' joint request in accordance with the terms of their settlement agreement.

Shortly before the hearing in Judge Pozonsky's chambers, Don Hopey and Dave Templeton, two reporters for PPG, attempted to gain access to the hearing. A court official informed Mr. Hopey and Mr. Templeton that the hearing was confidential by joint request of the parties. Mr. Hopey and Mr. Templeton stated they were "objecting" to the confidentiality of the proceedings and departed.

On August 31, 2011, approximately four months after the parties settled this case, and seven weeks after Plaintiffs filed their Praecipe for Discontinuance dismissing their claims and ending this litigation, PPG filed the Petition *sub judice*, asserting that (i) it had a right to intervene in these proceedings "to assert its right of access to the public judicial documents

⁵ Pa. R.C.P. 2039 provides that "[n]o action to which a minor is a party shall be compromised, settled or discontinued except after approval by the court pursuant to a petition presented by the guardian of the minor."

contained in the record” and (ii) it was entitled to briefing and a hearing before Judge Pozonsky addressing the basis for granting the parties’ joint request to seal the record.⁶ On September 13, 2011, a second Petitioner, the Observer, joined PPG’s Petition to Intervene and Motion to Unseal Record.⁷ Defendants filed their initial Opposition Brief on September 20, 2011, which established that Defendants are entitled to rely on the confidentiality provisions in their settlement agreement notwithstanding the need for Court approval of that settlement, and that Petitioners have advanced no legal basis for unsealing the record.

On October 4, 2011, Defendants and Petitioners appeared before Judge Pozonsky for argument on the merits of the Petition. During argument, the Court ordered supplemental briefing on the issue of whether PPG and the Observer have a right to intervene in this matter pursuant to their late-filed Petition.⁸

Defendants respectfully submit this Supplemental Opposition Brief to address the threshold question of whether the PPG and the Observer have a right to intervene in this litigation under the Pennsylvania Rules of Civil Procedure by filing their Petition seven weeks after Plaintiffs’ claims were dismissed and this case was marked closed. As demonstrated more fully below, the answer to this question is “no ”

⁶ See Petition, ¶¶ 5, 9-18. A copy of the PPG’s Petition is attached as Exhibit A.

⁷ Defendants do not know whether any reporters from the Observer were present or voiced any “objection” on the day of the hearing.

⁸ On October 6, 2011, the Court sent a letter to counsel of record setting forth a November 7, 2011 deadline for the parties to submit briefs “specifically address[ing] the issue of intervention, and whether the proposed intervenors can properly proceed under the Pennsylvania Rules of Civil Procedure.” A true and correct copy of this October 6, 2011 letter is attached as Exhibit B. In assessing a petition to intervene, a court is required to determine whether the petitioner comes within the provisions of Pa. R.C.P. 2327 for intervention. See, e.g., *Egenrieder v Ohio Cas Group*, 581 A.2d 937 (Pa. Super. 1990).

III. ARGUMENT

A. Legal Standards Governing Intervention

Pa. R.C.P. 2327 provides that “[a]t any time during the pendency of an action, a person not a party thereto shall be permitted to intervene” subject to certain conditions. However, Pa. R.C.P. 2329(3) provides that a petition to intervene may be denied where, among other things, “the petitioner has unduly delayed in making the application for intervention or the intervention will unduly delay, embarrass or prejudice the trial or the adjudication of the rights of the parties” “The question of whether the putative intervener has been dilatory is one within the discretion of the trial court whose decision will not be disturbed absent a manifest abuse of that discretion.” *In re T T.*, 842 A.2d 962, 964 (Pa. Super. 2004) (citing *Jackson v. Hendrick*, 446 A.2d 226, 228-29 (Pa. 1982)).

B. The Court Should Deny Petitioners’ Untimely Petition To Intervene

The Court should deny the Petition for at least two reasons, in addition to those set forth in Defendants’ initial Opposition Brief. *First*, the Court should deny the Petition pursuant to Pa. R.C.P. 2327, because it was not filed “during the pendency of an action.” The action was *not* pending because it was dismissed and the case closed when the Petition was filed. *Second*, the Court should deny the Petition pursuant to Pa. R.C.P. 2329(3), because the Petitioners had ample opportunity to attempt to intervene in this action, but they failed to do so. Furthermore, an order permitting Petitioners to re-open this case and intervene for the purpose of collaterally attacking the parties’ out-of-court settlement agreement reached in June of this year would unduly delay final resolution of the Court proceedings, as agreed to by the parties, and force the parties to continue litigating before this Court to uphold the mutually agreed-upon provisions of the

settlement agreement months after the agreement was consummated. The Court should therefore deny the Petition for the reasons stated herein and in Defendants' initial Opposition Brief.

I. The Petition Should Be Denied Because It Was Not Filed "During The Pendency Of An Action"

Under Pennsylvania law, "a person who has a certain recognized interest in the outcome of the litigation shall be permitted to intervene '[a]t any time during the pendency of an action.'" *Financial Freedom, SFC v. Cooper*, 21 A 3d 1229, 1231 (Pa. Super. 2011) (quoting Pa. R.C.P. 2327). However, "[t]o petition the court to intervene after a matter has been finally resolved is not allowed by our Rules of Civil Procedure. It is only *during the pendency of an action* that the court may allow intervention." *Id.* (emphasis in original); *accord In re Estate of Albright*, 545 A.2d 896, 899-900 (Pa. Super. 1988) (affirming trial court's denial of petition to intervene as untimely where it was filed nearly a month after entry of order resolving appeal; "where a court no longer has power to permit intervention because a matter has been finally adjudicated, a hearing on a petition to intervene would be pointless"); *Santangelo Hauling, Inc v. Montgomery County*, 479 A 2d 88, 89 (Pa. Cmwlth. 1984) (affirming trial court's denial of petition to intervene as untimely where it was filed almost one year after adjudication of the subject action; "[i]t is well established that, after an adjudication, an action is no longer pending; and a petition to intervene is then too late."). Accordingly, Pennsylvania courts have adopted Black's Law Dictionary's definition of "pending," stating, "An action is 'pending' . . . when it is: begun, but not yet completed, during; before the conclusion of; prior to the completion of; unsettled; undetermined; in process of settlement or adjustment. Thus, an action or suit is 'pending' from its inception until the rendition of final judgment." *Financial Freedom*, 21 A.3d at 1231; *see also Robinson Twp. Sch Dist v Houghton*, 128 A.2d 58, 60-61 (Pa. 1956) ("Pendency, in practice, has been said to be 'the state of an undetermined proceeding.' Black's Law Dictionary,

3rd Ed., p. 1345, defines the terms as ‘the state of an action, etc., after it has been begun, and *before the final disposition of it.*’”) (internal citations omitted; emphasis in original).⁹

The Petition was filed on August 31, 2011, over seven weeks after the Hallowichs dismissed the case pursuant to a settlement agreement entered in late June of 2011. In accordance with Pa. R.C.P. 2327 and long-standing Pennsylvania precedent, the Court should deny the PPG’s and the Observer’s Petition to Intervene as untimely, because neither Petitioner filed a Petition to Intervene “during the pendency of the action.” See *Financial Freedom, Albright, Santangelo Hauling, and Robinson Twp*, discussed *supra*.

As Defendants and Petitioners both must submit their briefs on this issue by November 7, 2011, Defendants can only anticipate Petitioners’ arguments. In this regard, Defendants anticipate that PPG will contend that its Petition was timely because (i) the matter was still “pending” on August 23, 2011, until the Court approved the settlement as to the Hallowichs’ minor children and (ii) Mr. Hopey and Mr. Templeton made an oral “objection” to the confidentiality of the settlement proceeding to a court official on that same date and before entry of the Court’s order approving the Orphans’ Court Petition and Joint Motion to Seal.¹⁰ Based on the foregoing, Petitioners will argue that they preserved their right of intervention during the pendency of the litigation. This argument lacks merit for at least two reasons.

⁹ For the same reasons, Petitioners are not entitled to a hearing on their Petition after this matter has been settled and closed, because to hold such a hearing when the Court no longer has any power to adjudicate the intervention issue would be a futile exercise. See, e.g., *Financial Freedom*, 21 A.3d at 1231 (holding that trial court did not err in refusing to hold hearing on petition to intervene that was filed by proposed intervenor over three months after entry of default judgment, when the court had no power to permit intervention because the matter was no longer pending, a hearing on a petition to intervene “would be pointless”)

¹⁰ The Observer cannot avail itself of this argument, because it did not voice any “objection” and instead attempted to join PPG’s Petition much later on September 13, 2011.

First, the Orphans' Court Petition was not required to be filed to *end* this matter; indeed, the case *had already been dismissed and marked closed by the Court* well before that on July 11, 2011, with the filing of the Hallowichs' voluntary dismissal. *See Financial Freedom, Albright, Santangelo Hauling, and Robinson Twp*, discussed *supra*. Subsequent filings were made only for the purpose of obtaining Court approval of the settlement as to the Plaintiffs' minor children. Notwithstanding the Court's approval of the Orphans' Court Petition and Joint Motion to Seal, the case had already been settled and marked closed by the Court. Court approval was not required to settle this action and bring this litigation to a close - the parties' out-of-court settlement and the Hallowichs' filing of the voluntary dismissal accomplished this. The filing of the Orphans' Court Petition did not change the fact that the parties already had finally resolved their dispute and dismissed the case, and therefore the case could not have been "pending" upon the filing of the Petition. Moreover, even assuming *arguendo* that the case was pending upon the filing of the Orphans' Court Petition and hearing before the Court on August 23, 2011, the case was clearly *not* pending eight days later on August 31, 2011, when PPG filed its Petition, as the Court had already granted the Orphans' Court Petition and Joint Motion to Seal. *See Robinson Twp. Sch. Dist.*, 128 A.2d at 61 (reversing the order allowing petitioners to intervene as "plainly improvident" because the petition was not filed "before final disposition" of the matter, and therefore "there was no proceeding pending, in which the parties could intervene.") (internal citations omitted). Therefore, the Petition should be denied, because Petitioners failed to file it "at any time during the pendency of an action" as required pursuant to Pa. R.C.P. 2327.

Second, Mr. Hopey and Mr. Templeton purported to voice their "objection" at the hearing on the Orphans' Court Petition and Joint Motion to Seal on behalf of PPG. However, this

attempt had no legal effect because Pennsylvania law forbids a corporation from being represented by anyone other than a licensed attorney authorized to practice before a Pennsylvania court. *See Walacavage v. Excell 2000, Inc*, 480 A.2d 281, 283-84 (Pa. Super. 1984) (rejecting argument that corporate party could appear *pro se* and holding “that a corporation may appear in court only through an attorney at law admitted to practice before the court.”).¹¹ Here, the PPG retained counsel to file the Petition but not until after the action was no longer pending. Indeed, this matter had been resolved and dismissed over seven weeks prior to the filing of the PPG’s Petition, and over nine weeks prior to the Observer joining the Petition.

Accordingly, pursuant to Pa. R.C.P. 2327, the Court should deny the Petition, because it was not filed during the pendency of the action.

2. The Petition Should Be Denied Because Petitioners Unduly Delayed The Filing Of Their Petition And Because Intervention Would Prejudice The Hallowichs And Defendants

As discussed above, a court may deny a petition to intervene where, among other things, “the petitioner has unduly delayed in making application for intervention or the intervention will unduly delay, embarrass or prejudice the trial or the adjudication of the rights of the parties.” Pa. R.C.P. 2429(3).

Indeed, the case of *Township of Radnor v. Radnor Recreational, LLC*, 859 A.2d 1 (Pa. Cmwlth. 2004) compels denial of the instant Petition. In *Radnor*, the proposed intervenors (a civic association) filed a petition to intervene nineteen days after the trial court approved a settlement between the Township and a group of developers. This particular settlement

¹¹ The Court should also deny the Petition pursuant to Pa. R.C.P. 2327, to the extent the PPG argues that Mr. Hopey and Mr. Templeton objected *pro se* on their own behalf, because neither Mr. Hopey nor Mr. Templeton has petitioned to intervene individually

agreement “would allow the [d]evelopers to submit two plans for the development of the [disputed] property. If the Township accepted one of the plans, the agreement provide[d] that the [d]evelopers would discontinue their civil rights action against the Township.” *Id.* at 2. The trial court approved the settlement, and retained jurisdiction over it for “resolution of any issues remaining under the agreement.” *Id.* Nineteen days after approval of the settlement agreement, the civic association filed a petition to intervene.

On appeal from the trial court’s denial of the petition to intervene as unduly delayed and unfairly prejudicial to the settling parties, the Commonwealth Court of Pennsylvania noted that “a party that falls within any of the categories set forth in Pa. R.C.P. No. 2327 may be refused intervention should the trial court determine that one of the circumstances set forth at Pa. R.C.P. No. 2329 is present.” *Id.* The court held that the circumstances set forth under Pa. R.C.P. 2329(3) were present because the proposed intervenors unduly delayed the filing of their petition for nineteen days after entry of the settlement, and because such late intervention would prejudice the parties’ settlement. The *Radnor* court prohibited the intervenors from “upset[ting] the efforts of the parties to the litigation to end their acrimonious dispute. The court determined that the intervention of the Proposed Intervenors at this late point would prejudice the Township, its citizens as a whole, and the [d]evelopers.” *Id.* at 5. The Court affirmed the trial court’s denial of the petition to intervene pursuant to Pa. R.C.P. 2729(3) as unduly delayed and prejudicial to the settling parties.

As in *Radnor*, Petitioners here have not and cannot offer any justification for their failure to file their Petition until over seven weeks after dismissal of this action. Petitioners had ample opportunity to attempt to intervene in the litigation from its commencement on May 27, 2010 until the ultimate settlement and dismissal of the action over thirteen months later on July 11,

2011. Furthermore, on August 11, 2011, counsel for Range Resources presented to Judge Pozonsky on behalf of the Hallowichs and Defendants, a Joint Request for a Scheduling Order to present the Orphans' Court Petition and Joint Motion to Seal to the Court. This Joint Request for Scheduling Order requested that Judge Pozonsky conduct the hearing on the Orphans' Court Petition and Joint Motion to Seal "in closed court or in chambers." Judge Pozonsky issued an order that same day granting the request and ordering the hearing to be held "in closed court chambers." This document was public record prior to the hearing, but Petitioners did not attempt to intervene in, or in any way object to, the request for a confidential hearing until August 31, 2011, eight days after the August 23, 2011 hearing was concluded. Petitioners have not and cannot establish any basis for this delay.

Moreover, the PPG published a number of articles on the Hallowichs and their allegations throughout this time period,¹² but did not file its Petition until August 31, 2011, well after the July 11, 2011 dismissal of this litigation. The PPG could have sought to intervene at an earlier stage, but it never attempted to do so, and therefore can offer no justifiable excuse for the delay, particularly when they were well aware of the proceeding. *See also Wecht v. Roddey*, 815 A.2d 1146, 1153 (Pa. Cmwlth. 2002) (denying petitioner's intervention as the "matter was no longer pending" and further because the "matter [was] of great notoriety") (citing *Albright*, 545 A.2d at 899 ("Especially where the party proposing its intervention has had ample notice and opportunity

¹² *See, e.g.*, Timothy McNulty, *Foes of shale drilling take message to Green Tree*, PITTSBURGH POST-GAZETTE, November 20, 2010, available at <http://www.post-gazette.com/pg/10324/1104710-113.stm>; Janice Crompton, *Wells of wealth - or woe? Questions waft from Marcellus Shale drilling sites*, PITTSBURGH POST-GAZETTE, July 29, 2010, available at <http://www.post-gazette.com/pg/10210/1075861-55.stm>.

to protect its interests earlier, to allow intervention at such a late day would unduly prejudice the interests of the party in whose favor the matter has been resolved").

Indeed, allowing intervention at this late stage, and when the matter has been settled and closed, would cause the Hallowichs and Defendants to continue to litigate issues related to this case when it was settled over four months ago. The Court should deny the Petition and put an end to this case, as agreed to by the Hallowichs and Defendants.

Accordingly, the Court should deny the Petition pursuant to Pa. R.C.P. 2729(3), because Petitioners were dilatory in filing their Petition and because intervention would prejudice the parties to the settlement agreement.


IV. CONCLUSION

As demonstrated above, the Court should deny the Petition pursuant to Pa. R.C.P. 2327 because it was filed over seven weeks after this matter was dismissed and marked closed and therefore was not filed during the pendency of the action,. The Court should also deny the Petition pursuant to Pa. R.C.P. 2729(3) because Petitioners were dilatory in filing their Petition and because permitting intervention by Petitioners at this late stage would prejudice the parties in the performance of their obligations under the settlement agreement.

Based on the foregoing reasons, and those set forth in Defendants' initial Opposition Brief, Defendants respectfully request that the Court deny the Petition

Date: November 7, 2011

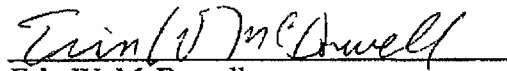
K&L GATES LLP


Richard W. Hosking, Esq.
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Tel: (412) 355-6500

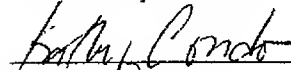
***Counsel for Defendant Range Resources
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***Attorneys for Defendants Williams Field
Services Company, LLC and Laurel
Mountain Midstream, LLC***

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Defendants' **Supplemental Brief in Opposition to PG Publishing Company's and The Observer Publishing Company's Petition to Intervene and Motion to Unseal** was served on the following individuals via United States mail this 7th day of November, 2011:

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Washington, PA 15301


James C. Swetz, Esq.

EXHIBIT A

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W

Plaintiff,

vs

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P., MARKWEST ENERGY
GROUP, L.L.C., AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendant.

No. C-63-CV-201003954

PG PUBLISHING COMPANY'S
PETITION TO INTERVENE AND
MOTION TO UNSEAL RECORD

Filed on behalf of Intervenor:
PG Publishing Company d/b/a
The Pittsburgh Post-Gazette

Counsel of Record for this Party.

FREDERICK N. FRANK, Esquire
Pa. I.D. #10395

FRANK, GALE, BAILS, MURCKO
& POGRASS, P.C.
Firm I.D. No. 892
33rd Floor, Gulf Tower
707 Grant Street
Pittsburgh, PA 15219

(412) 471-5912

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W,

Plaintiffs,

vs

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P., MARKWEST ENERGY
GROUP, L L C., AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendant.

No C-63-CV-201003954

NOTICE OF PRESENTATION

TO:

Gail A. Myers, Esquire
400 Waterfront Dr
Pittsburgh, PA 15222

(Counsel for Pennsylvania Department of
Environmental Protection)

Kathy K. Condo-Caritis, Esquire
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222

(Counsel for Williams Gas/Laurel Mountain
Midstream)

Erin Windle McDowell, Esquire
44th Floor, 600 Grant Street
Pittsburgh, PA 15219

(Counsel for Markwest Energy Partners L.P. &
Markwest Energy Group, L.L.C.)

James C. Swetz, Esquire
K & L Gates, L.L.P.
K & L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222

(Counsel for Range Resources Corporation)

Peter Villari, Esquire
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428
(Counsel for Plaintiffs)

KINDLY TAKE NOTICE that the within PG's Publishing Company's Petition to
Intervene and Motion to Unseal Record will be presented to the Honorable Paul Pozonsky on

the 6th day of September, 2011 at 9:15 a.m. in courtroom no 5, Washington County Courthouse
1 South Main Street, Washington, PA 15301



Frederick N. Frank
Attorney for Intervenor

CERTIFICATE OF SERVICE

I, Frederick N. Frank, Esquire, hereby certify that a true and correct copy of the foregoing
PETITION TO INTERVENE AND MOTION TO UNSEAL RECORD was served upon the
following, this 31st day of August, 2011, via facsimile.

The Honorable Paul Pozonsky
Washington County Courthouse 1 South Main Street
Suite 1004
Washington, PA 15301

Gail A. Myers, Esquire
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Pittsburgh, PA 15222
(Counsel for Pennsylvania Department of Environmental Protection)

Erin Windle McDowell, Esquire
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Pittsburgh, PA 15219
(Counsel for Markwest Energy Partners L.P. & Markwest Energy Group, L.L.C.)

Kathy K. Condo-Caritis, Esquire
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James C. Swetz, Esquire
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08/31/2011 12:22 FAX 4124717351

FBMGG PC

007/015

Peter Villari, Esquire
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428
(Counsel for Plaintiffs)



Frederick N. Frank, Esquire
Attorney for Intervenor

08/31/2011 10:46 AM

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W,

Plaintiffs,

vs.

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P., MARKWEST ENERGY
GROUP, L.L.C., AND PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

Defendant.

No. C-63-CV-201003954

**PG PUBLISHING COMPANY'S PETITION TO INTERVENE
AND MOTION TO UNSEAL RECORD**

AND NOW, Intervenor, PG Publishing Company d/b/a The Pittsburgh Post-Gazette, by and through its undersigned counsel, Frederick N. Frank, Esquire and Frank, Gale, Bails, Murcko & Pocrass, P.C., hereby moves this Honorable Court for an order granting the Intervenor's Petition to Intervene and Motion to Unseal Record in the above-captioned case. In support thereof, the Intervenor states as follows:

1. PG Publishing Company is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania having a regular place of business at 34 Boulevard of the Allies, Pittsburgh, PA 15222.
2. PG Publishing Company is the publisher of the Pittsburgh Post-Gazette ("Post-Gazette"), a newspaper of general circulation in Western Pennsylvania.

3 The Post-Gazette learned that a civil complaint had been filed in the above-captioned case based upon various media coverage. This included a July 29, 2010 article titled "Wells of wealth -- or woe? Questions waft from Marcellus Shale drilling sites" by the Post-Gazette, in which the Plaintiffs Stephanie and Chris Hallowich provide quotes and discuss the instant case before this Court.

4. By Order of Court dated August 23, 2011, this Court granted a Joint Motion to File Petition for Approval of Minors' Actions Under Seal and sealed the record under case number 2010-3954 "indefinitely in its entirety." A true and correct copy of the August 23, 2011 Order of Court is attached hereto as Exhibit "A".

5. The Post-Gazette, as a member of the news media, a member of the public of the Commonwealth of Pennsylvania, and a representative of the public of the Commonwealth of Pennsylvania, seeks to intervene in this matter to assert its right of access to the public judicial documents contained in the record.

6. The Pennsylvania Constitution supports the principle of open judicial proceedings. "All courts shall be open." Pa. Const. Art. I, § 11. Furthermore, case law has supported this principle as well. See, e.g., *Hutchinson by Hutchinson v. Luddy*, 611 A.2d 1280 (Pa. Super. 1992)

7 The tradition of keeping proceedings and records of civil proceedings open to public observation is founded in common law right, and as stated in *Publicker Industries v. Cohen*, 733 F.2d 1059, 1071 (3rd Cir. 1984), "[it is] clear that the public and the press possess a First Amendment and a common law right of access to civil proceedings; indeed there is a presumption that these proceedings will be open."

8 The filing of a petition to intervene in order to open proceedings by the news media, in a civil trial, is an appropriate means of raising assertions of public rights of access. See *Hutchinson by Hutchinson*, 611 A.2d at 1284.

9 In determining whether the record in a civil proceeding should be sealed, the Superior Court has adopted the standards set forth by the Third Circuit in *Publicker Industries*. See *Hutchinson by Hutchinson*, 611 A.2d at 1290, 1291.

10. Under *Publicker Industries*, a trial court must satisfy certain procedural and substantive requirements before it can deny access to civil proceedings. *Publicker Industries*, 733 F.2d at 1071.

11. Procedurally, a trial court, before closing a proceeding, must afford the representatives of the media objecting to closure a full opportunity to be heard with their counsel present. If it decides to order closure, the trial court then must both articulate the countervailing interest it seeks to protect and make findings specific enough that a reviewing court can determine whether the closure order was properly entered. *Publicker Industries*, 733 F.2d at 1071-72.

12. In *Publicker Industries*, the reviewing court reversed and remanded a trial court order sealing the record because the trial court failed to articulate the reasons explaining the sealing of the record, stating "Here, the [trial court's] conclusion could be predicated on either a valid rationale or an invalid rationale, and we cannot assume that its final conclusions were necessarily based on the valid rationale." *Id.* at 1073.

13. In case at hand, on the date the August 23, 2011 Order of Court was entered into by this Court, reporters for the Post-Gazette, Don Hopey and Dave Templeton, were present in the courtroom at the start of the hearing on the Joint Motion to File Petition for Approval of Minors' Actions Under Seal. Upon noticing members of the media in the courtroom, the Court removed all

parties and their counsel to his chambers and closed the proceeding to the Post-Gazette's reporters, and all members of the public who had a valid right to be present in the courtroom

14. Following the removal of the parties and their counsel to chambers, reporters for the Post-Gazette objected to the Court's closure of the proceeding to a court official and asked for their objection to be formally put on the record. The court official, without allowing the Post-Gazette's objection to be heard by the trial judge, stated that the objection would be noted on the record.

15. Then, without allowing the Post-Gazette the opportunity to be heard, the Court sealed the record by Order of Court dated August 23, 2011, without a hearing to determine if a countervailing interest exists and without articulating the countervailing interest it was attempting to protect.

16. In *Publicker Industries*, the Court held that the sealing of pleadings and trial proceedings may be warranted only when either, an important governmental interest is at stake and there is no less restrictive way to serve that governmental interest or that a clearly defined and serious injury would have occurred to the motioning party if the record were not sealed, such as the disclosure of a trade secret. *Publicker Industries*, 733 F.2d at 1070, 1071.

17. Thus, it is clear that the party seeking to close the record has the burden of proving that they will suffer a clearly defined and serious injury if the record were not sealed.

18. The Post-Gazette therefore requests that their request to intervene be granted and a hearing on the Post-Gazette's Motion to Unseal Record be scheduled before this Court, with all parties seeking sealing of the record required to submit an answer no later than 20 days before the scheduled hearing setting forth their basis for seeking sealing of the record.

WHEREFORE, the Intervenor respectfully requests that this Honorable Court grant the relief requested in this petition and enter the attached order

Respectfully submitted,

By: 

Frederick N. Frank, Esquire
Attorneys for Intervenor

EK

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISIONSTEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W

Plaintiff,

vs.

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P., MARKWEST ENERGY
GROUP, L.L.C., AND PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

Defendant.

No. 2010-3954

PROTHONOTARY
WASHINGTON CO. PA

2011 AUG 23 PM 12:20

FILED

Order

AND NOW, on this 23rd day of August, 2011, upon consideration of the Joint Motion to File Petition for Approval of Minors' Actions Under Seal, and the Confidential Agreement attached thereto, it is hereby **ORDERED** that said Motion is **GRANTED** and that the file under case number 2010-3954 be **SEALED** indefinitely in its entirety

BY THE COURT:

J. Paul Pozansky



VERIFICATION

I, Don Hopey, a reporter for the Pittsburgh Post-Gazette, verify that I am authorized to execute this verification upon behalf of the Pittsburgh Post-Gazette and that the statements made in the within Petition to Intervene and Motion to Unseal Records are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

8/30/11
Date

Don Hopey
Don Hopey

08/31/2011 10:46 AM

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W,

Plaintiffs,

vs

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P., MARKWEST ENERGY
GROUP, L.L.C., AND PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

Defendant.

No. C-63-CV-201003954

ORDER OF COURT

NOW, to wit, this _____ day of _____, 2011, after consideration of the PG Publishing Company's Petition to Intervene and Motion to Unseal Records, it is hereby ORDERED, ADJUDGED and DECREED that the PG Publishing Company ("Intervenor") is permitted to intervene and a hearing shall be held on the PG Publishing Company's Motion to Unseal Records on the _____ day of _____, 2011 at _____ A.M./P.M. before The Honorable Paul Pozonsky. Twenty days prior to said hearing, all parties seeking to seal the record in the above-captioned case shall serve on all other parties, including the Intervenor, and the Court an answer to Intervenor's motion setting forth the basis in law and fact why the record should be sealed

BY THE COURT:

_____, J.

EXHIBIT B



COURT OF COMMON PLEAS OF WASHINGTON COUNTY
TWENTY-SEVENTH JUDICIAL DISTRICT OF PENNSYLVANIA
WASHINGTON COUNTY COURTHOUSE
ONE SOUTH MAIN STREET
WASHINGTON, PENNSYLVANIA 15301

PAUL POZONSKY
JUDGE

724-228-6826

Today is Thursday
October 6, 2011

Peter M. Villari, Esquire
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Eckert Seamans Cherin & Mellott,
LLC
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Babst, Calland, Clemens
& Zomnir, P.C.
Two Gateway Center
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Pittsburgh, PA 15222

Colin E. Fitch
Marriner, Jones & Fitch
800 Washington Trust Building
30 East Beau Street
Washington, PA 15301

RE: Hallowich & Hallowich v. Range Resources Corporation, Williams Gas/Laurel Mountain
Midstream, Markwest Energy Partners, L.p., Markwest Energy Group, L.L.C., and Pennsylvania
Department of Environmental Protection
Case No. 2010-3954

Ladies and Gentlemen:

Please submit any briefs on or before November 7, 2011. The briefs should specifically address the issue of intervention, and whether the proposed intervenors can properly proceed under the Pennsylvania Rules of Civil Procedure.

If any further hearing is required in this matter, the Court will enter an appropriate Order scheduling such a hearing after review of all briefs filed on or before November 7, 2011.

Should you have any questions, please feel free to contact my chambers, at your convenience.

Very truly yours,

Paul Pozonsky, Judge

PP/jhc

OCT 14 2011

The Honorable Judge Paul Pozonsky, Presiding

VILLARI, BRANDES & KLINE, P.C.

By Peter M. Villari, Esquire
Attorney I.D Nos 26875
8 Tower Bridge, Suite 400
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Conshohocken, PA 19428
610-729-2901

Attorneys for Plaintiffs

**IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY,
PENNSYLVANIA
PREMISES LIABILITY ACTION – CIVIL CASE**

STEPHANIE HALLOWICH AND CHRIS)
HALLOWICH, H/W,)

Plaintiffs,)

v)

RANGE RESOURCES CORPORATION,)
WILLIAMS GAS/LAUREL MOUNTAIN)
MIDSTREAM, MARKWEST ENERGY)
PARTNERS, L P., MARKWEST)
ENERGY GROUP, L L C , and)
PENNSYLVANIA DEPARTMENT OF)
ENVIRONMENTAL PROTECTION,)

Defendants)

CIVIL ACTION

Docket No 2010-3954

FILED
2011
MAY 10
10:01
JH

RULE TO SHOW CAUSE

AND NOW, this _____ day of _____, 2011, a Rule to Show Cause is HEREBY issued against Defendants to submit a response within 5 (five) days of this Order as to why the record in this case should not be unsealed to permit Plaintiffs to. a) advise the Pennsylvania Department of Revenue, Bureau of Individual Taxes (PADOR), that the Realty Transfer Tax Statement of Value (SOV) dated October 13, 2011 was false and inaccurate; b) advise the public by way of Press Release concerning the true terms of the settlement Agreement regarding what Defendants really paid for their property; and c) granting Plaintiffs' counsel costs and fees associated with the matter herein and releasing Plaintiffs from

the aforesaid provisions of the settlement Agreement given the Defendants' breach of same

BY THE COURT

J

VILLARI, BRANDES & KLINE, P.C.

By Peter M. Villari, Esquire
Attorney I.D. Nos. 26875
8 Tower Bridge, Suite 400
161 Washington Street
Conshohocken, PA 19428
610-729-2900

Attorneys for Plaintiffs

**IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY,
PENNSYLVANIA
PREMISES LIABILITY ACTION – CIVIL CASE**

STEPHANIE HALLOWICH AND CHRIS)
HALLOWICH, H/W,)

Plaintiffs,)

v)

RANGE RESOURCES CORPORATION;)
WILLIAMS GAS/LAUREL MOUNTAIN)
MIDSTREAM, MARKWEST ENERGY)
PARTNERS, L.P., MARKWEST)
ENERGY GROUP, L.L.C.; and)
PENNSYLVANIA DEPARTMENT OF)
ENVIRONMENTAL PROTECTION,)

Defendants)

CIVIL ACTION

Docket No. 2010-3954

ORDER

AND NOW, this _____ day of _____, 2011, upon consideration of Plaintiffs' Emergency Petition for Limited Unsealing of the Record and for a Ruling on the Parties' Settlement Agreement and Release, this Court issues a Rule to Show Cause to Defendants to indicate, within five (5) days of the Order, why the Court docket in this matter should not be unsealed for the limited purposes of: a) allowing Plaintiffs to advise the Pennsylvania Department of Revenue, Bureau of Individual Taxes (PADOR), that the Realty Transfer Tax Statement of Value (SOV) dated October 13, 2011 was false and providing the settlement documents in support of same, b) allowing Plaintiffs to immediately advise the public by way of Press Release that Defendants filed false and inaccurate information

regarding the transfer of their property to Defendant Range and the "actual cash consideration" and/or "total consideration" they did receive for same; and c) a determination by the Court awarding Plaintiffs' counsel costs and fees associated with the matter herein and releasing Plaintiffs from the aforesaid provisions of the settlement Agreement given the Defendants' breach of same

BY THE COURT

J

VILLARI, BRANDES & KLINE, P.C.

By Peter M. Villari, Esquire
Attorney I D Nos : 26875
8 Tower Bridge, Suite 400
161 Washington Street
Conshohocken, PA 19428
610-729-2900

Attorneys for Plaintiffs

**IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY,
PENNSYLVANIA
PREMISES LIABILITY ACTION – CIVIL CASE**

STEPHANIE HALLOWICH AND CHRIS)
HALLOWICH, H/W,)

Plaintiffs,)

v)

RANGE RESOURCES CORPORATION,)
WILLIAMS GAS/LAUREL MOUNTAIN)
MIDSTREAM, MARKWEST ENERGY)
PARTNERS, L P., MARKWEST)
ENERGY GROUP, L L.C , and)
PENNSYLVANIA DEPARTMENT OF)
ENVIRONMENTAL PROTECTION,)

Defendants)

CIVIL ACTION

Docket No. 2010-3954

**PLAINTIFFS' EMERGENCY PETITION FOR LIMITED UNSEALING
OF THE RECORD AND FOR A RULING ON THE PARTIES'
SETTLEMENT AGREEMENT AND RELEASE**

Plaintiffs, Stephanie and Chris Hallowich, and their minor children ("Plaintiffs"), by and through their undersigned attorneys, Villari, Brandes & Kline, P C., file this Emergency Petition for Limited Unsealing of the Record and for a Ruling on the Parties' Settlement Agreement and Release In support thereof, Plaintiffs assert as follows

1 The matter herein involves complex legal issues relating to environmental contamination and adverse health exposures attributable to the gas drilling and processing activities of Defendants Range, William Gas and Laurel Mountain and MarkWest at or around

Plaintiffs' prior home and property located at 179 Avella Road, Hickory, PA 15340 ("property")

2 At or around June 24, 2011, the parties entered into a Settlement Agreement and Release ("Agreement") the terms of which were to be confidential. The parties also mutually agreed to seal the record pertaining to this case. The Court has a copy of the Agreement

3. As part of the settlement negotiations, Defendant Range provided Plaintiffs an appraisal of Plaintiffs' property completed by Karen Marshall of Keller Williams Realty, which indicated a value for the property to be approximately \$258,000. See Attached Exhibit "A."

4 Correspondingly, Plaintiffs provided information to Defendants establishing that the value of their property as a residential property was negligible due to Defendants' gas drilling activities

5. On July 28, 2011, the Plaintiffs filed a Petition for Approval of Settlement of Minors' Actions Pursuant to Pa R C P 2039 and Local Rule 2039.1 ("Petition") and a Joint Motion to File Petition for Approval of Settlement of Minors' Actions under Seal ("Joint Motion"). A key aspect of the Settlement was that ownership of Plaintiffs' residence would be transferred to Defendant Range. Copies of these pleadings are filed of record.

6 After conducting a hearing on the aforesaid Petition and Joint Motion on August 23, 2011, this Court entered two separate Orders granting both the Petition and Joint Motion. These Orders are filed of record.

7 On August 31, 2011, the Pittsburgh Post Gazette ("PPG") filed a Petition to Intervene and Motion to Unseal Record against Defendants raising, in pertinent part, certain constitutional, free speech and right to public information claims, all of which are wholly separate and independent from Plaintiffs' aforesaid tort and personal injury claims and the aforesaid Agreement. Plaintiffs are not a party to the PPG Petition, nor can they be by virtue of their Agreement with Defendants.

8 Although Plaintiffs initially did not take a formal position on the PPG Petition, upon receiving written confirmation from Defendants that their participation would not constitute a breach of the confidentiality provisions of the Agreement, Plaintiffs consented to the filing of Joint Motion to Amend the Seal Order, agreeing to make public certain filings and pleadings (specifically nineteen documents)

9 On or about October 6, 2011, Plaintiffs forwarded to Defendant Range, the original executed Special Warranty Deed, dated June 17, 2011, for purposes of effectuating the deed and/or title transfer of their residence to Range and the recording of the deed to their home to Defendant Range. Such deed shows that the total consideration paid by Defendant Range to Plaintiffs for the property was “one-hundred dollars.” See Attached Exhibit “B.”

10 At no time did Defendant Range, as part of the property transfer and recording of the deed, provide notice or otherwise disclose to Plaintiffs that certain confidential information, or any information for that matter, would be submitted to the Pennsylvania Department of Revenue, Bureau of Individual Taxes (“PADOR”)

11. On or about October 28, 2011, Plaintiffs were made aware of an article published in the Observer Reporter, titled. “Tax shows Range paid \$550,000 for couple’s property.” See Attached Exhibit “C.” The article sets forth, in pertinent part, that Plaintiffs, “who claimed their property became more of an industrial zone than a residential one once gas drilling began nearby, has sold their 10 acre property and 4 bedroom house to Range Resources for \$550,000” The article further states that “although a settlement between Christopher and Stephanie Hallowich and Range and other gas industry companies remains sealed in Washington County Court, the transfer tax on the property was recorded Friday, indicating the amount” (emphasis added).

12 On October 31, 2011, days after the publication of the above article, Plaintiffs were made aware by Defendant Range that a Realty Transfer Tax Statement of Value (“SOV”) had

been prepared and submitted by Defendant Range, without prior notice to Plaintiffs or their attorneys, as part of the deed transfer and recording of the property See Attached Exhibit "D" Such SOV was submitted to the PADOR for the purpose of determining realty transfer tax values and for property tax purposes It was known by Defendant Range that such document and the information contained therein would be available to the public and the press

13 Contrary to the terms and provisions of the Confidential Settlement Agreement, and inconsistent with Defendant's own Keller William's Appraisal, Defendant Range intentionally and purposefully misrepresented in the SOV that the "actual cash consideration" and "total consideration" for the property was \$550,000 00 Defendant Range also falsely listed on the SOV that the "Fair Market Value" of the property was "\$86,282 81 "

14. By way of email dated November 3, 2011, Plaintiffs' counsel advised defense counsel for Range that the aforesaid value submissions of the SOV were false, inaccurate, grossly inflated and wholly misleading, especially since there was never "actual cash consideration" or "total consideration" of \$550,000 paid by Defendants to Plaintiffs for their property. As a result, Plaintiffs' counsel requested that Defendant Range promptly amend and re-file an accurate and true SOV to the PADOR and also afforded Defendants an opportunity to clarify and correct the otherwise misleading and false SOV. As of date, Defendants have refused to correct the SOV, nor have they provided the basis for the aforesaid inflated and false property value amounts See Attached Exhibit "E"

15 Plaintiffs respectfully submit that Defendants' intentional and purposeful filing of the inaccurate, fraudulent and untruthful SOV clearly violates the confidentiality terms and conditions of the settlement Agreement Additionally, Plaintiffs contend that Defendants submitted the false SOV in order to cause undue public embarrassment, harassment and harm to Plaintiffs, including intentionally submitting to the PADOR the false and inflated realty transfer tax information to cause immediate, irreparable, substantial and harmful economic tax

consequences to Plaintiffs. Plaintiffs further contend that Defendants filed the false SOV for the purpose of garnering a public relations windfall given the SOV's representations that Defendants paid more than full or fair market value for Plaintiffs' residence. The SOV is and remains blatantly false and is not supported in any way by the terms, provisions and/or conditions set forth in the settlement Agreement, or by any other document for that matter. Plaintiffs have therefore prepared a letter to the PADOR advising it of the filing of the false SOV. See Attached Exhibit "F."

16. As a result of Defendants' conduct as described herein, Plaintiffs' have and continue to be substantively harmed by the dissemination of inaccurate and false information promulgated by Defendants, especially where Defendants on the one hand continue to assert confidentiality and the sealing of the docket, yet in the same breath intentionally and purposefully file confidential, albeit false, information for the sole purpose of causing undue harm to Plaintiffs and garnering undeserved public favor for their companies.

17. Defendants' aforesaid actions are a breach of the confidentiality provisions of the settlement Agreement and Plaintiffs should therefore be released from same.

18. Accordingly, given that the docket is currently sealed by Order of this Court, and the settlement Agreement remains confidential, Plaintiffs seek immediate emergency Court intervention for the limited purpose of (1) approving Plaintiffs advising the PADOR of the inaccurate and false SOV document by disclosing to the PADOR the settlement Agreement and related documents; (2) granting Plaintiffs leave to issue a Press Release to immediately correct the dissemination of the aforesaid false and inaccurate information by Defendants, (3) entering an Order releasing Plaintiffs from the confidentiality provisions of the settlement Agreement given Defendants' breach of same, and (4) entering an Order for the costs and Attorney fees incurred by Plaintiffs as a result of Defendants' intentional breach of the confidentiality terms of the Settlement Agreement and their other actions as set forth herein.

Respectfully submitted,

VILLARI, BRANDES & KLINE, P C

BY 

Peter M. Villari, Esquire

Attorney I D # 26875

161 Washington Street,

8 Tower Bridge, Suite 400

Conshohocken, PA 19428

Tele 610-729-2900

Fax 610-729-2910

Attys for Plaintiffs

Dated: November 10, 2011

EXHIBIT A

Subject Property

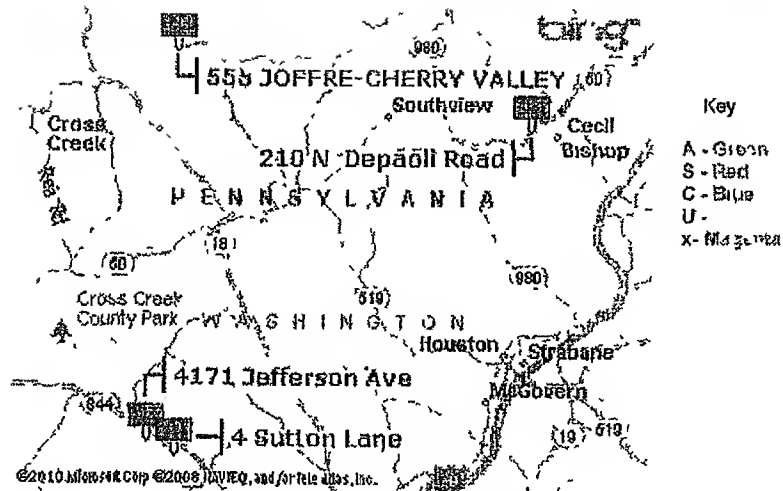
Prepared for James Cannon



Karen Marshall, KELLER WILLIAMS REALTY
1500 Oxford Drive, Suite #300, Bethel Park, PA 15102
Office 412-831-3800 X126 | Cell 412-651 2124 | Fax 412-831-9964

Comparable Property Location

Prepared for James Cannon



Comparable Address	# Beds	Lot Size	Days on Market	List Price	Sale Price
210 N Depaoli Road	4	9 acres		\$295,000	
4171 Jefferson Ave	4	491X337X14	140	\$305,000	\$287,500
4 Sutton Lane	3	11 acres	10	\$279,900	\$266,500
555 JOFFRE-CHERRY VALLEY	3	175X663X31	12	\$229,900	\$220,000

Karen Marshall, KELLER WILLIAMS REALTY
 1500 Oxford Drive, Suite #300, Bethel Park, PA 15102
 Office 412-831-3800 x126 | Cell 412-551-2124 | Fax 412-831-9964

Comparative Summary

Ref #	# Beds	#FB/PB	Acres	Years	Type	List Price	Sale Price
819432	4	3 / 1	9.000	33	Residence/Single Family	\$ 295,000	
210 N. Depaoli Road					Parking: 2 / Attached Garage	DOM:	Active
643247	4	3	2.500	20	Residence/Single Family	\$ 305,000	\$ 287,500
4171 Jefferson Ave					Parking: 6 / Detached Garage	DOM: 140	Sold
525029	3	2 / 1	11.500	2	Residence/Single Family	\$ 279,900	\$ 266,500
4 Sutton Lane					Parking: 2 / Integral Garage	DOM: 10	Sold
466709	3	2 / 1	4.300		Residence/Single Family	\$ 229,900	\$ 220,000
555 JOFFRE-CHERRY VALLEY					Parking: 2 / Attached Garage	DOM: 12	Sold

Information Deemed Reliable, But Not Guaranteed
-- Copyright, 2009, West Penn MLS --

04/16/10

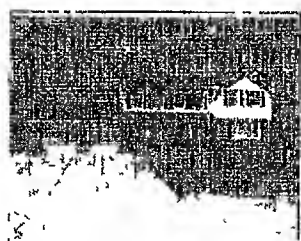
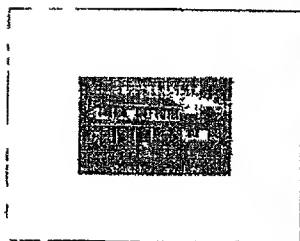
02:02 PM

Total Listings: 4

	List Price	Sale Price	DOM
Average	\$ 277,450	\$ 258,000	54
Minimum	\$ 229,900	\$ 220,000	10
Maximum	\$ 305,000	\$ 287,500	140
Median	\$ 287,450	\$ 266,500	12

These properties are your competition. A potential purchaser will compare your home to homes similar to these when trying to decide which to buy. Take a look at these homes, if only on paper. Try to be objective and ask yourself, "Which home is the best value?" Is it yours? If not, these other homes may sell before yours. But don't forget that the "List Price" of these homes represent what the sellers WANT for their home, not necessarily what they are really going to get if they sell their home. So when setting the price of your home, don't simply look at the LIST PRICE of the other comparable homes, look at the SALE PRICE of homes comparable to yours which actually SOLD!

Comparative Homes



210 N Depaoli Road

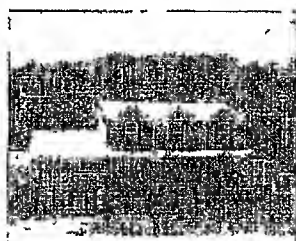
4171 Jefferson Ave

Ref #		819432	643247
Status		Active	Sold
School District		Canon McMillan	Avella Area
New Subdiv			
County	Washington	Washington	Washington
Type	Residence/Single Family	Residence/Single Family	Residence/Single Family
Style	2 Story or 2 Level	2 Story or 2 Level	2 Story or 2 Level
Architecture	Colonial	Colonial	Colonial
Years Old		33	20
Total Bedroom	4	4	4
Full Baths	2	3	3
Partial Baths	1	1	
Floors		Ceramic Tile, Wall to Wall, Vinyl	Tile, Wall to Wall,
Fireplace Desc		2 / FR/B	
Basement Desc	Y / Full	Y / Hugh	Y / FULL
Construct Type	New	Existing	Existing
Construction	Vinyl	Brick, Vinyl	Brick
Roof		Composition	Asphalt
Inclusions		Auto Door on Garage, Dishwasher Electric	Auto Door on Garage, Disposal, Dishwasher.
Pool		N	N
Parking Desc	2 / Attached Garage	2 / Attached Garage	6 / Detached Garage
Acres	10.00	9.00	2.50
Lot Size		9 acres	491X337X197X337
Heat Type		Oil	Electric, Heat Pump
Cooling			Electric, Central
Water		Public	Well
Sewer		Septic Tank	Septic Tank
Insulation		Yes	Yes / FBGLS/BLWN
Taxes		\$ 4,127	\$ 3,307
Contract Date			02/23/07
Close Date			04/02/07
List Price	\$ 187,090	\$ 295,000	\$ 305,000
Sold Price			\$ 287,500
SP/LP Ratio	--	--	94.26%

Comparative Homes



4 Sutton Lane



555 JOFFRE CHERRY VALL

Ref #	525029	466709
Status	Sold	Sold
School District	Avolla Area	Burgettstown
New Subdiv		
County	Washington	Washington
Type	Residence/Single Family	Residence/Single Family
Style	2 Story or 2 Level	2 Story or 2 Level
Architecture	Contemporary	
Years Old	2	
Total Bedroom	3	3
Full Baths	2	2
Partial Baths	1	1
Floors	Wall to Wall, Vinyl,	
Fireplace Desc	1 / LR/lvg	1 / LR/LB
Basement Desc	Y / Fw/crwl	Y / FULL
Construct Type	Existing	New
Construction	Vinyl	Vinyl
Roof	ASPHAL	Asphalt
Inclusions	Auto Door on Garage, Disposal. Dishwasher, Gas	Dishwasher, Multi-Pane Windows, Screens, Wall to
Pool	N	
Parking Desc	2 / Integral Garage	2 / Attached Garage
Acres	11.50	4.30
Lot Size	11 acres	175X663X378X679
Heat Type	Propane	Other
Cooling	Electric	
Water	Well	
Sewer	Septic Tank	
Insulation	Yes / Fiberglass	
Taxes	\$ 2,954	\$ 420
Contract Date	08/28/04	07/10/03
Close Date	10/15/04	08/15/03
List Price	\$ 279,900	\$ 229,900
Sold Price	\$ 266,500	\$ 220,000
SP/LP Ratio	95.21%	95.69%



Price Adjustments

Prepared for James Cannon

Address:	210 N. Depauli Road	4171 Jefferson Ave	4 Sutton Lane
Status	A	S	S
List Price.	\$187,090	\$295,000	\$305,000
Sale Price		\$287,500	\$279,900
Bedrooms:	4	4	3
Square Ft			
LP/SqFt			
SP/SqFt			
Adjustment 1			
+/- Amount			
Adjustment 2			
+/- Amount			
Adjustment 3			
+/- Amount			
Adjustment 4			
+/- Amount			
Adjustment 5			
+/- Amount			
Adjustment 6			
+/- Amount			
Adjustment 7			
+/- Amount			
Adjustment 8			
+/- Amount			
Total	\$0	\$0	\$0
Adjusted List Pr:	\$187,090	\$295,000	\$305,000
Adjusted Sale Pr.		\$287,500	\$279,900
Notes:	Brick 1 Less Acre Older 1 More Bathroom	Paved Drive Older Less Acreage Landscaped Lot Larger Additional Garage	More Acreage Jettied Tub

Information Deemed Reliable, But Not Guaranteed

Price Adjustments

Prepared for James Cannon

Address 555 JOFFRE-CHERR
 Status S
 List Price \$229,900
 Sale Price \$220,000
 Bedrooms 3
 Square Ft _____
 LP/SqFt _____
 SP/SqFt _____

Adjustment 1: _____
 +/- Amount: _____

Adjustment 2: _____
 +/- Amount: _____

Adjustment 3: _____
 +/- Amount: _____

Adjustment 4: _____
 +/- Amount: _____

Adjustment 5: _____
 +/- Amount: _____

Adjustment 6: _____
 +/- Amount: _____

Adjustment 7: _____
 +/- Amount: _____

Adjustment 8: _____
 +/- Amount: _____

Total \$0

Adjusted List Pr \$229,900

Adjusted Sale Pr \$220,000

Notes. Less Agreeage, 1 Less Bedroom

Perfect Cmparable if
 you factor in \$15,000
 to add a Bedroom and
 \$36,000 for more
 land, would put the
 price in the mid
 \$370,000's

Information Deemed Reliable But Not Guaranteed

Suggested Offer



Prepared for James Cannon

Market Statistics...

Sell Price Statistics

Average Price: \$258,000
High Price: \$287,500
Median Price: \$266,500
Low Price: \$220,000

Sell Price Per Sq. Ft. Statistics

Average Price/Sq Ft.
High Price/Sq Ft:
Median Price/Sq Ft:
Low Price/Sq Ft:

Figures are based on selling price after adjustments and rounded to the nearest \$100

Summary...

Analysis of the selected comparable properties suggest similar properties are selling in the price range ~~\$220,000~~ to \$287,500

Recommended Purchase Price: \$258,000

Karen Marshall, KELLER WILLIAMS REALTY
1500 Oxford Drive, Suite #300, Belthel Park, PA 15102
Office 412-831-3800 X126 | Cell 412-551-2124 | Fax 412-831-9964

Print Version

Washington County Pennsylvania 15301 (866) 844-6528



Locations

Interior Plans

Exterior Plans

Virtual Tour

Complete Amenities

New Hampshire - Classic

Imagine the possibilities! The New Hampshire offers total comfort in a Four Bedroom, 2½ bath country manor home - with a generous amount of space for every member of your family. Alternate designs offer a Three Bedroom version with a dramatic 2-Story foyer, or a Master Suite on the first floor. The New Hampshire is a home with value and flexibility that will suite your needs and budget.

[Driving Directions](#) | [Request Information](#)

SPECIFICATIONS

Home Style: Single Family
Starting from \$157,090 - 1300 sq. ft.
Approx Sq Ft: 2255
Stories: 2
Beds: 4
Baths: 2.5
Garage: 2
Floor Plan:

FEATURES & OPTIONS

Spacious Family Room
Full Front Porch
Formal Living Room & Dining Room
First Floor Laundry
Full Basement with Crawl Space - 2 Car Garage with Storage Area

OTHER NEW HOME GALLERIES THAT OFFER THIS DESIGN

New Home Gallery

[Greensburg New Home Gallery](#)
[Youngstown New Home Gallery](#)

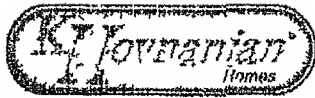
City

[Greensburg](#)
[North Jackson](#)

State

[PA](#)
[OH](#)

Architectural renderings are artist conceptions and could include optional features which may not come standard. Some are outside the scope of a typical home. We reserve the right to revise, enlarge and/or substitute products, dimensions, materials and colors without notice.

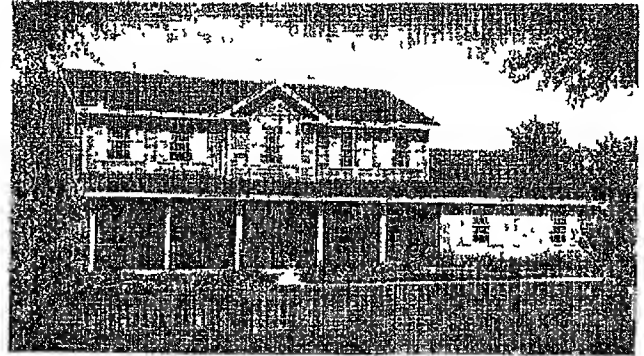


BUILD ON YOUR LOT

New Hampshire - Classic



STANDARD



EXTERIOR II



EXTERIOR III



EXTERIOR IV

Prices, availability, dimensions and specifications are subject to change without notice



BUILD ON YOUR LOT

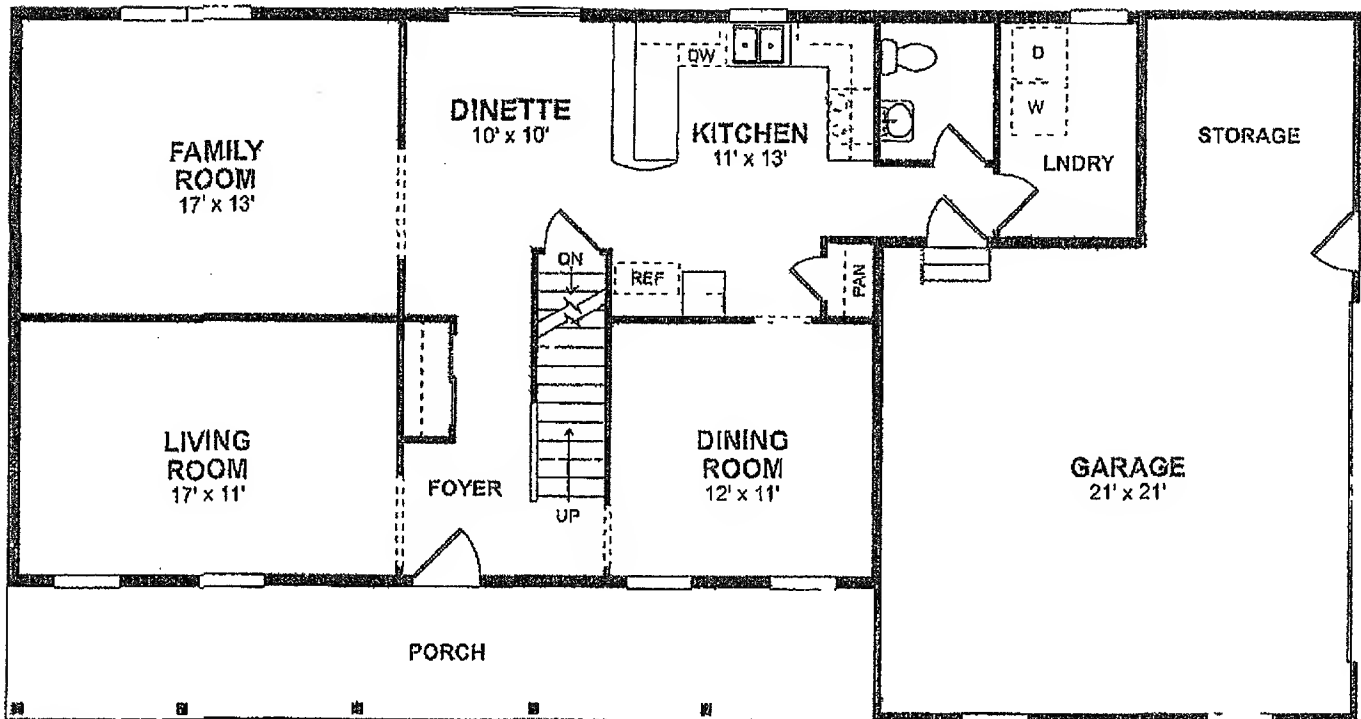
Washington New Home Gallery

1990 Washington Road
Washington
PA

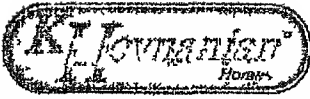
New Hampshire - Classic

(866) 844-6528

Mon - Sat 10am to 6pm, Sun



FIRST FLOOR



BUILD ON YOUR LOT

Washington New Home Gallery

1990 Washington Road

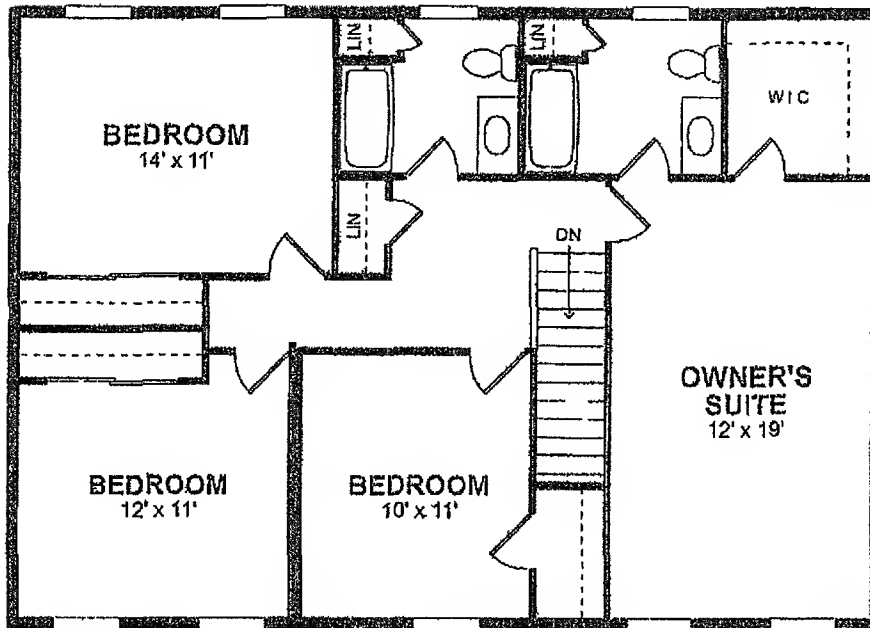
Washington

PA

New Hampshire - Classic

(866) 844-6528

Mon - Sat 10am to 6pm; Sun



SECOND FLOOR

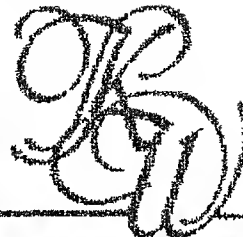
Best Regards

Karen

Karen Marshall,
Operating Principal for
Pittsburgh South & Peters Township Market Centers
Realtor, New Construction Specialist,
Luxury Homes Consultant &
Team Leader-"The Karen Marshall Group"
Limited Partner
Keller Williams Realty
1500 Oxford Drive, Suite 300
Bethel Park, PA 15102
412-831-3800 or 724-969-4900 ext 126
412-831-9964 fax
kmarshall444@aol.com
www.thekarenmarshallgroup.com

Licensed in the State of Pennsylvania

Please view the Pennsylvania Consumer Notice at the following link
<http://www.dos.state.pa.us/bpoa/LIB/bpoa/20/10/reconsnotice.pdf>



KELLER WILLI

R E A L T Y

If you do not wish to receive future emails, please click the link to Unsubscribe [Unsubscribe](#)

12/3/2010

EXHIBIT B



SPECIAL WARRANTY DEED

Made the 17 day of June, 2011

Between Christopher Hallowich and Stephanie Hallowich, his wife, of Washington County, Pennsylvania, hereinafter referred to as the "Grantors",

and RANGE RESOURCES - APPALACHIA, LLC, a Delaware limited liability company, with offices located at 380 Southpointe Boulevard, Suite 300, Canonsburg, Pennsylvania 15317, hereinafter referred to as "Grantee".

Witnesseth, that the Grantors, for one hundred and 00/100 Dollars (\$100 00) and other good and valuable consideration paid, hereby Give, Grant, Bargain, Sell, Convey, Transfer, and Assign with special warranty covenants, to the said Grantee, its successors and assigns.

ALL of the following bounded and described land in the Township of Mt. Pleasant, Washington County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point located at the Northeast corner of said property situate in the middle of State Route 50 corner common to land now or formerly of Jill Bricklmen; thence from said point South 43° 08' 00" East, a distance of 896.80 feet to a point; thence from said point South 13° 30' 00" West, a distance of 491 feet to a point at the southern most corner of said property; thence from said point North 43° 37' 51" West, a distance of 1121.39 feet to a point, thence from said point North 52° 40' 11" East, a distance of 38.52 feet to a point; thence from said point North 10° 23' 35" West, a distance of 59.75 feet to a point; thence from said point North 0° 08' 20" East a distance of 75 00 feet to a point; thence from said point North 52° 37' 08" East, a distance of 36.96 feet to a point; thence from said point North 55° 25' 15" East, a distance of 99.48 feet to a point, thence from said point North 59° 40' 33" East a distance of 166.76 feet to the place of beginning. Being 10.0369 acres, more or less.

TOGETHER with an easement over the adjacent real estate know as Nancy Stewart Tract II for ingress and egress to the above described real estate. Said easement beginning at the point located in the middle of State Route 50, corner common to the Northwest corner of above described tract and other land of the Grantor herein; thence fro said point South 00° 08' 20" West, a distance of 75.00 feet to a point; thence from said point South 10° 23' 35" East, a distance of 59.75 feet to a point, thence from said point South 52° 40' 11" West, a distance of 38 52 feet to a point; thence from said point North 43° 37' 35" West, a distance of 28.56 feet to a point; thence from said point North 10° 23' 21" West, a distance of 57.91 feet to a point; thence from said point North 52° 37' 08" East, a distance of 63.04 feet to the place of beginning.

EXCEPTING AND RESERVING onto the Grantor all the oil and gas in and underlying the above described property.

UNDER AND SUBJECT TO such exceptions, reservations, covenants, right-of-way, and conditions as contained in prior instruments in the record chain of title.

BEING same premises conveyed to Grantors by deed of Nancy Stewart dated November 1, 2006 and record of November 2, 2006 in the Washington County Recorder of Deeds Office at Instrument Number 200632970. The above descriptions based upon the Plan of Subdivision prepared by Joseph L. Filardi, dated January 19, 2006 and revised on July 7, 2006, and which was recorded in the Washington County Recorder of Deeds Office on August 28, 2006 at Instrument Number 200625761, Plan Book Volume 45, Page 717.

PARCEL Identification Number: 460-006-00-00-0002-01

TO HAVE AND TO HOLD the same to and for the use of the Grantee, its successors and assigns forever, and to Grantors, for themselves and their heirs and assigns, hereby covenant and agree that they will WARRANT SPECIALLY title to the property hereby conveyed.

NOTICE--THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. [This notice is set forth in the manner provided in Section 1 of the Act of July 17, 1957, P. L. 984, as amended, and is not intended as notice of unrecorded instruments, if any.]

Witness the hands and seals of the said parties of the first part.

WITNESSES:

Rahel S. Hallowich

Christopher Hallowich (SEAL)
Christopher Hallowich

Rahel S. Hallowich

Stephanie Hallowich (SEAL)
Stephanie Hallowich

NOTICE THE UNDERSIGNED, AS EVIDENCED BY THE SIGNATURE(S) TO THIS NOTICE AND THE ACCEPTANCE AND RECORDING OF THIS DEED, (IS, ARE) FULLY COGNIZANT OF THE FACT THAT THE UNDERSIGNED MAY NOT BE OBTAINING THE RIGHT OF PROTECTION AGAINST SUBSIDENCE, AS TO THE PROPERTY HEREIN CONVEYED, RESULTING FROM COAL MINING OPERATIONS AND THAT THE PURCHASED PROPERTY, HEREIN CONVEYED, MAY BE PROTECTED FROM DAMAGE DUE TO MINE SUBSIDENCE BY A PRIVATE CONTRACT WITH THE OWNERS OF THE ECONOMIC INTEREST IN THE COAL. THIS NOTICE IS INSERTED HEREIN TO COMPLY WITH THE BITUMINOUS MINE SUBSIDENCE AND LAND CONSERVATION ACT OF 1966, AS AMENDED 1980, OCT. 10, P.L. 874, NO. 156 § 1.

WITNESS:

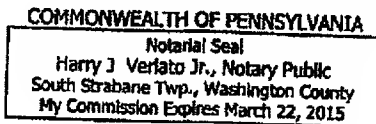
RANGE RESOURCES - APPALACHIA, LLC

By: Walter R. [Signature]

Commonwealth of Pennsylvania .
County of WASHINGTON : ss

On this the 17 day of JUNE, 2011, before me, a notary public, the undersigned officer, personally appeared Christopher Hallowich and Stephanie Hallowich known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

In Witness Whereof, I hereunto set my hand and official seal.



Harry J. Verlato Jr.
Notary Public

EXHIBIT C

Tax shows Range paid \$550,000 for couple's property

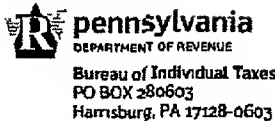
10/28/2011 7:09 PM

A Mt. Pleasant Township couple, who claimed their property became more of an industrial zone than a residential one once gas drilling began nearby, has sold their 10 acre property and 4 bedroom house to Range Resources for \$550,000

Although a settlement between Christopher and Stephanie Hallowich and Range and other gas industry companies remains sealed in Washington County Court, the transfer tax on the property was recorded Friday, indicating the amount. The couple is also retaining oil and gas rights to the property.

More on this story will appear in tomorrow's edition. Copyright Observer Publishing Co

EXHIBIT D



REALTY TRANSFER TAX STATEMENT OF VALUE

See reverse for instructions.

RECORDER'S USE ONLY

State Tax Paid

Book Number

Page Number

Date Recorded

#5,500.00

201128230

10-28-11

Complete each section and file in duplicate with Recorder of Deeds when (1) the full value/consideration is not set forth in the deed, (2) the deed is without consideration or by gift, or (3) a tax exemption is claimed. A Statement of Value is not required if the transfer is wholly exempt from tax based on family relationship or public utility easement. If more space is needed, attach additional sheets.

A. CORRESPONDENT - All inquiries may be directed to the following person:

Name	Telephone Number
Laura Schimmel	(724) 743-6759
Mailing Address	City
380 Southpointe Boulevard	Canonsburg
	State
	PA
	ZIP Code
	15317

B. TRANSFER DATA

Grantor(s)/Lessor(s)
Christopher And Stephanie Nallowich
Mailing Address
179 Avella Road
City
Nichory
State
PA
ZIP Code
15340

C. Date of Acceptance of Document

Grantee(s)/Lessee(s)
Range Resources - Appalachia, LLC
Mailing Address
380 Southpointe Boulevard
City
Canonsburg
State
PA
ZIP Code
15317

D. REAL ESTATE LOCATION

Street Address	City, Township, Borough
179 Avella Road	Nichory
County	School District
Washington	Fitcherry
	Tax Parcel Number
	460-006-00-00-000-01

E. VALUATION DATA - WAS TRANSACTION PART OF AN ASSIGNMENT OR RELOCATION? ☐ Y ☒ N

1 Actual Cash Consideration	2 Other Consideration	3 Total Consideration
550,000.00	+ 0	= 550,000.00
4 County Assessed Value	5 Common Level Ratio Factor	6 Fair Market Value
\$15,111	x 5.71	= 86,283.81

F. EXEMPTION DATA

1a Amount of Exemption Claimed	1b Percentage of Grantor's Interest in Real Estate	1c Percentage of Grantor's Interest Conveyed
0	100	100

Check Appropriate Box Below for Exemption Claimed.

- ☐ Will or intestate succession _____ (Name of Decedent) _____ (Estate File Number)
- ☐ Transfer to a trust (Attach complete copy of trust agreement identifying all beneficiaries.)
- ☐ Transfer from a trust. Date of transfer into the trust _____
If trust was amended attach a copy of original and amended trust.
- ☐ Transfer between principal and agent/straw party (Attach complete copy of agency/straw party agreement.)
- ☐ Transfers to the commonwealth, the U.S. and instrumentalities by gift, dedication, condemnation or in lieu of condemnation (If condemnation or in lieu of condemnation, attach copy of resolution)
- ☐ Transfer from mortgagor to a holder of a mortgage in default (Attach copy of mortgage and note/assignment)
- ☐ Corrective or confirmatory deed. (Attach complete copy of the deed to be corrected or confirmed)
- ☐ Statutory corporate consolidation, merger or division. (Attach copy of articles)
- ☐ Other (Please explain exemption claimed) _____

Under penalties of law, I declare that I have examined this statement, including accompanying information, and to the best of my knowledge and belief, it is true, correct and complete.

Signature of Correspondent or Responsible Party

Date

Laura Schimmel

10/13/11

FAILURE TO COMPLETE THIS FORM PROPERLY OR ATTACH REQUESTED DOCUMENTATION MAY RESULT IN THE RECORDER'S REFUSAL TO RECORD THE DEED.

Certificate of Residence

I do hereby certify that Grantee's precise residence is 1900 Dalrock Rock Road,
Rowlett, TX 75088.

DEBORAH BARDELLA
RECORDER OF DEEDS
WASHINGTON, PA
Pennsylvania



Grantee/Agent for Grantee

INSTRUMENT NUMBER
201128230
RECORDED ON
Oct 28, 2011
12:32:10 PM
Total Pages: 5

ALL REALTY	\$5,500.00
ES	
ORDING FEES	\$65.50
HOOL REALTY	\$2,750.00
ES	
CAL REALTY	\$2,750.00
ES	
TOTAL PAID	\$11,065.50

W: 492901 USER: TW

EXHIBIT E

From: Peter Villari
Sent: Thursday, November 03, 2011 2:02 PM
To: Swetz, James C.
Cc: Rob Wilkey; Hosking, Richard
Subject: RE: Hallowich -- Executed Docs

Jim,

I can't believe your response. Not to mention, the totally inflated value you placed on the home on the transfer tax documents. Indeed, it exceeds by a substantial amount the appraisal Range obtained on the property and totally ignores the true market value of the property given its proximity to your client's operations. If my clients did something this underhanded, you'd be screaming. A "legal obligation" is one thing, discharging that obligation truthfully is another. Range did not pay "Actual Cash Consideration" of \$550,000.00 for the Hallowich property, and your firm knows this. However, if your firm wants to become complicit in this fraud, so be it. You have one week to file an amended Realty Transfer Tax Statement of Value reflecting the cash consideration paid for the property as indicated on the Deed that was recorded. If you do not, I will contact the Pennsylvania Bureau of Individual Taxes to advise them of the true facts of this situation, which by necessity will require that I give them a copy of all settlement documents. I will seek Court approval to do this first. I'm sure the Court will enjoy your client's explanation. I will also issue a press release to correct the obvious misimpression Range manufactured by intentionally misstating the "Actual Cash Consideration" paid for the Hallowich property. Range knew this document would become public knowledge and what angle the press would take. Of course, any adverse tax consequences that this document causes my clients will also be redressed. While it appears that the Hallowichs are satisfied to move on from this unpleasant situation, it is very clear that your client cannot. Let me know when Rick wants to talk.

Peter

From: Swetz, James C. [mailto:james.swetz@klgates.com]
Sent: Thursday, November 03, 2011 11:56 AM
To: Rob Wilkey
Cc: Peter Villari; Alison M. Cappella; Hosking, Richard
Subject: RE: Hallowich -- Executed Docs

Rob

Rick is available to talk to Pete via phone on Monday.

However, please note our position that this does not constitute a breach of the settlement agreement as our client has a legal obligation to provide this information for recording. The deed does not establish the transfer value.

Notwithstanding the above, we will listen and pass your concerns on to our client.

Please provide a time when Pete is available to discuss. Thanks.

Regards,

James Swetz

From: Rob Wilkey [mailto:rw@villariaw.com]
Sent: Tuesday, November 01, 2011 5:04 PM
To: Swetz, James C.
Cc: Peter Villari; Alison M. Cappella; Hosking, Richard

Subject: RE. Hallowich -- Executed Docs

Jim,

As you may be aware, the Deed you forwarded also included a Realty Transfer Tax Statement of Value, signed by a Laura Schimmel, setting forth total consideration for the sale of the property in the amount of \$550,000 00, including an exemption of 0. The Hallowichs view the disclosure of such information as a violation of the confidentiality provisions within the settlement agreement and also have serious questions as to the basis by which Range calculated this amount, including the fair market value (FMV). Please advise at your earliest convenience and whether or not Rick is able to discuss this matter with Pete by way of a phone conference. Thanks

Rob

Villan, Brandes, & Kline, P C

161 Washington Street, Suite 400

Conshohocken, PA 19428

(610) 729-2900 Ph

(610) 729-2910 Fax

EXHIBIT F

Peter M. Villari, Esq.
Email pvillari@villarilaw.com

November 8, 2011

VIA FAX AND OVERNIGHT DELIVERY

Pennsylvania Department of Revenue
Bureau of Individual Taxes
P.O. Box 280603
Harrisburg, PA 17128-0603

**RE: Christopher and Stephanie Hollowich, Realty Transfer Tax Statement
of Value, dated October 13, 2011**

To whom it may concern.

Please be advised that on October 13, 2011, a Realty Transfer Tax Statement of Value (SOV) was filed by Range Resources Appalachia, LLC ("Range"), involving our clients Christopher and Stephanie Hollowich, and the transfer of property located at 179 Avella Road, Hickory, PA 15340 (See Attached Realty Transfer Tax Statement of Value). Such SOV contains false and inaccurate information regarding the actual cash consideration and tax disclosures related to this property transaction.

Such property transfer that is the subject of the SOV was part of a confidential settlement agreement occurring between the Hollowichs and Range on or about June 24, 2011. The SOV filed by Range indicates an "Actual Cash Consideration" of \$550,000.00 and that the "Amount of Exemption Claimed" is zero. Such amounts set forth in the SOV are completely false and in fact, are not referenced, cited, or otherwise set forth in the parties' confidential settlement agreement. As such, the Hollowichs are seeking to re-file an Amended SOV to properly file accurate realty and tax information as part of this property transfer.

Very truly yours,

Peter M. Villari, Esq.

VILLARI, BRANDES & KLINE, P.C.

By Peter M. Villari, Esquire
Attorney ID Nos 26875
8 Tower Bridge, Suite 400
161 Washington Street
Conshohocken, PA 19428
610-729-2900

Attorneys for Plaintiffs

**IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY,
PENNSYLVANIA
PREMISES LIABILITY ACTION – CIVIL CASE**

STEPHANIE HALLOWICH AND CHRIS)
HALLOWICH, H/W,)

Plaintiffs,)

v)

RANGE RESOURCES CORPORATION,)
WILLIAMS GAS/LAUREL MOUNTAIN)
MIDSTREAM, MARKWEST ENERGY)
PARTNERS, L.P.; MARKWEST)
ENERGY GROUP, L.L.C., and)
PENNSYLVANIA DEPARTMENT OF)
ENVIRONMENTAL PROTECTION,)

Defendants.)

CIVIL ACTION

Docket No 2010-3954

2011 NOV 14 AM 10:01

CERTIFICATE OF SERVICE

I, Peter M. Villari, Esquire, do hereby certify that a true and correct copy of the foregoing Plaintiffs' Emergency Petition for Limited Unsealing of the Record and For a Ruling on the Parties' Settlement Agreement and Release was served upon the following on this 10th day of November, 2011 via regular mail

The Honorable Paul Pozonsky, Judge
Washington County Courthouse
1 South Main Street, Suite 1004
Washington, PA 15301

Gail A. Myers, Esquire
400 Waterfront Drive
Pittsburgh, PA 15222
Counsel for PA DEP

Erin Windle McDowell, Esquire
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
*Counsel for MarkWest Energy Partners, L P
And MarkWest Energy Group, LLC*

Kathy Condo-Caritis, Esquire
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222
Counsel for Williams Gas/Laurel Mountain Midstream

James C Swetz, Esquire
K & L Gates, LLP
K & L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222
Counsel for Range Resources Corporation

Frederick N Frank, Esquire
Frank, Gale, Bails, Murcko & Pocrass, PC
33rd Floor, Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
Counsel for PG Publishing Company

VILLARI, BRANDES & KLINE, P.C.

BY: 

Peter M Villari, Esquire
Attorney I D # 26875
Attys for Plaintiffs

35

² The Proposed Intervenor includes PG Publishing Company and The Observer Publishing Company

3 The allegations in Paragraph 3 of the Petition for Hearing are admitted to the extent that the Hallowichs filed a Petition for Approval of Settlement of Minors' Actions and a Joint Motion to Seal. The allegations in Footnote One of the Petition for Hearing are denied as the Defendants are without specific knowledge or information as to whether or not the Proposed Intervenor have been able to access the docket in this matter. Indeed, this matter was unsealed from its inception in May 2010 until August 23, 2011 when the Court ordered it sealed.

4 The allegations in Paragraph 4 of the Petition for Hearing are denied. The Court initially scheduled a hearing for the Joint Motion to Seal and Petition for Approval of Settlement of Minors' Actions on August 26, 2011 at 11:00 a.m., as expressly noted on the docket referenced by the Proposed Intervenor in Footnote Two. Thereafter, at the request of counsel for the Hallowichs the hearing for the Joint Motion to Seal and Petition for Approval of Settlement of Minors' Actions was rescheduled to Tuesday, August 23, 2011 at 11:00 a.m. Defendants were informed by email on Friday, August 19, 2011 by Hallowichs' counsel that Mr. Peter Villari had a scheduling conflict on August 26, 2011 and that the hearing for the Joint Motion to Seal and Petition for Approval of Settlement of Minors' Actions was rescheduled to August 23, 2011, following Mr. Villari's unilateral request to the Court.

5. The allegations in Paragraph 5 of the Petition for Hearing are admitted to the extent that the Court held a hearing in August 23, 2011 in connection with the Joint Motion to Seal and Petition for Approval of Settlement of Minors' Actions. However, the allegations in Footnote Three are denied as the Defendants are without specific knowledge or information as to whether or not the Proposed Intervenor were aware as to why the hearing was held on August 23, 2011. Moreover, in further response to this allegation the Proposed Intervenor allege that two reporters for the Post-Gazette were present in the courtroom (see Paragraph 6 of the Petition

for Hearing), and therefore knew that the hearing had been rescheduled to August 23, 2011, as requested by Hallowichs' counsel

6 Defendants are without specific knowledge or information regarding the allegations contained in Paragraph 6 of the Petition for Hearing and therefore deny the allegations

7 The allegations in Paragraph 7 of the Petition for Hearing are denied to the extent it is alleged that there is "substantial disagreement and dispute between Proposed Intervenors and Defendants regarding the events" in connection with the August 23, 2011 hearing as any such disagreement is irrelevant. Indeed, the Court specifically requested that the parties brief whether the Proposed Intervenors "can properly proceed under the Pennsylvania Rules of Civil Procedure." The question of whether the Proposed Intervenors can intervene in an action that is no longer pending is a legal question for the Court's determination, and the "events that took place before, during and after the August 23, 2011" hearing are completely irrelevant to this legal question

8 The allegations in Paragraph 8 of the Petition for Hearing contains conclusions of law to which no response is required. Indeed, the Proposed Intervenors cite no authority, nor can they, that they have any right to notice of the proceedings in connection with this matter

9 The allegations in Paragraph 9 of the Petition for Hearing are admitted. Defendants further state in response thereto that the Proposed Intervenors filings to intervene were not filed during the pendency of this action as required by the Pennsylvania Rules of Civil Procedure and as further discussed in Defendants' Supplemental Brief in Opposition to PG Publishing Company's and the Observer Publishing Company's Petition to Intervene and Motion to Unseal Record filed with the Court on November 7, 2011

10. With respect to the allegations contained Paragraph 10 of the Petition for Hearing, it is admitted that the Court raised the issue of the Proposed Intervenor's right to intervene during the October 4, 2011 hearing. The Defendants deny the remainder of the allegations, as discussed above, no further facts are necessary to make the legal determination that the Proposed Intervenor has no basis to intervene in a matter that is no longer pending.

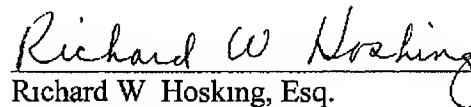
11. The allegations in Paragraph 11 of the Petition for Hearing are denied.

12. The allegations in Paragraph 12 of the Petition for Hearing are denied.

WHEREFORE, Defendants respectfully request that the Court deny the Proposed Intervenor's Joint Petition for a Hearing.

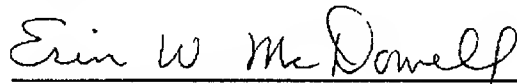
Date: November 28, 2011

K&L GATES LLP



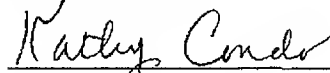
Richard W. Hosking, Esq.
James C. Swetz, Esq.
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222-2613
Tel (412) 355-6500
Counsel for Defendant Range Resources Corporation

**ECKERT SEAMANS CHERIN &
ELLOTT, LLC**



Erin W. McDowell
Attorney ID # 93684
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
Tel (412) 566-6000
Attorneys for Defendants MarkWest Energy Partners, LP and MarkWest Energy Group, LLC

**BABST CALLAND CLEMENTS &
ZOMNIR, PC**



Kathy Condo

Attorney I D #34910

Two Gateway Center, 8th Floor

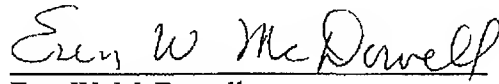
Pittsburgh, PA 15222

Tel (412) 394-5400

***Attorneys for Defendants Williams Field
Services Company, LLC and Laurel
Mountain Midstream, LLC***

VERIFICATION

I verify that the facts set forth in this Answer to Proposed Intervenor's Joint Petition for a Hearing are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities. I am authorized to make this verification on behalf of the Defendants Range Resources, Williams and MarkWest in this matter.



Erin W. McDowell

Eckert Seamans Cherin & Mellott LLC

*Attorneys for MarkWest Energy Partners, LP and
MarkWest Energy Group LLC*

Dated: November 28, 2011

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Defendants' **Answer to Proposed Intervenor's Joint Petition for a Hearing** was served on the following individuals via United States mail this 28th day of November, 2011

Peter M. Villari, Esquire
Villari, Brandes & Kline, P.C.
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428

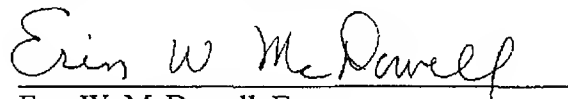
Gail A. Myers, Esquire
DEP-Office of Chief Counsel
400 Waterfront Drive
Pittsburgh, PA 15222-4745

Kathy K. Condo, Esq.
Babst, Calland, Clements & Zomnir, P.C.
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222

Frederick N. Frank
Frank, Gale, Bails, Murcko &
Pocrass, P.C.
33rd Floor, Gulf Tower
707 Grant Street
Pittsburgh, PA 15219

Colin E. Fitch
Marriner, Jones & Fitch
800 Washington Trust Building
30 East Beau Street
Washington, PA 15301

Richard W. Hosking, Esq.
James C. Swetz, Esq.
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222-2613


Erin W. McDowell, Esq.

VILLARI, BRANDES & KLINE, P.C.

By Peter M. Villari, Esquire

Attorney I.D. Nos.: 26875

8 Tower Bridge, Suite 400

161 Washington Street

Conshohocken, PA 19428

610-729-2901

Attorneys for Plaintiffs

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY,
PENNSYLVANIA
PREMISES LIABILITY ACTION – CIVIL CASE

STEPHANIE HALLOWICH AND CHRIS
HALLOWICH, H/W.

Plaintiffs,

v.

RANGE RESOURCES CORPORATION;
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM; MARKWEST ENERGY
PARTNERS, L.P.; MARKWEST
ENERGY GROUP, L.L.C.; and
PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Defendants.

CIVIL ACTION

Docket No 2010-3954

2011 DEC 20 AM 10:02

AA

RULE TO SHOW CAUSE

AND NOW, this 23rd day of DECEMBER, 2011, a Rule to Show

Cause is HEREBY issued against Defendants to submit a response ^{WRITTEN ON OR BEFORE JANUARY 24, 2012} ~~within 5 (five) days of this~~

~~Order~~ as to why the record in this case should not be unsealed to permit Plaintiffs to: a) advise the Pennsylvania Department of Revenue, Bureau of Individual Taxes (PADOR), that the Realty Transfer Tax Statement of Value (SOV) dated October 13, 2011 was false and inaccurate; b) advise the public by way of Press Release concerning the true terms of the settlement Agreement regarding what Defendants really paid for their property, and c) granting Plaintiffs' counsel costs and fees associated with the matter herein and releasing Plaintiffs from

the aforesaid provisions of the settlement Agreement given the Defendants' breach of same.

A HEARING ON THE ABOVE WILL BE HELD AT
11.30 A.M ON JANUARY 31, 2012
BY THE COURT



A large, stylized handwritten signature, possibly reading 'J. J.', is written over the text 'BY THE COURT'. The signature is written in black ink and is quite fluid and expressive.

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

STEPHANIE HALLOWICH AND CHRIS
HALLOWICH, H/W,

Plaintiffs,

v

RANGE RESOURCES CORPORATION;
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L L.C , and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

Docket No 2010-3954

**DEFENDANT WILLIAMS
GAS/LAUREL MOUNTAIN
MIDSTREAM'S ANSWER TO
PLAINTIFFS' EMERGENCY
PETITION FOR LIMITED
UNSEALING OF THE RECORD AND
FOR A RULING ON THE PARTIES'
SETTLEMENT AGREEMENT AND
RELEASE**

Counsel of Record for Defendant

Kathy K. Condo (PA ID 34910)
Christopher M. Buell (PA ID 204068)
BABST, CALLAND,
CLEMENTS AND ZOMNIR, P.C
Two Gateway Center, 6th Floor
Pittsburgh, PA 15222
Tel: (412) 394-5400

FILED
12 JUN 21 PM 9:51
101

2 The allegations in paragraph 2 of the Petition are admitted, except that LMM is without sufficient information to either admit or deny the allegation that the Court has a copy of the Settlement Agreement

3 The allegations in paragraph 5 are admitted, except that LMM is without sufficient information to either admit or deny the allegation that a key aspect of the Settlement Agreement was the transfer of ownership of the Plaintiffs' residence to Range Resources Corporation ("Range"). By way of further response, the Petition and Joint Motion referred to in paragraph 5 are presently sealed

4 The allegations of paragraph 6 are admitted.

5 With respect to the allegations of paragraph 7, it is admitted that the Pittsburgh Post-Gazette filed a Petition to Intervene. To the extent that the allegations in paragraph 7 seek to characterize the Petition to Intervene, the Petition to Intervene is a written document that speaks for itself, and no response is required. The remaining allegations of paragraph 7 state conclusions of law to which no response is required. To the extent a response is required, it is denied that the Plaintiffs are not a party to the Petition to Intervene filed by the Pittsburgh Post-Gazette or that they are barred from being a party by virtue of the Settlement Agreement

6 The allegations of paragraph 8 are denied. LMM denies that a Joint Motion to Amend the Seal Order was ever filed because the Plaintiffs conditioned their consent to a Joint Motion upon terms that were not acceptable. As to the remaining allegations in paragraph 8, LMM is without sufficient information to either admit or deny the allegations

7 While the Plaintiffs in their Petition make various allegations in paragraphs 3, 4, and 9 through 18 of the Petition in which they refer to "Defendants" without definition, a fair

reading of the Petition indicates that the Plaintiffs' allegations in those paragraphs relate to Range, and therefore, no response by LMM is required

8. To the extent that the Plaintiffs' allegations in paragraphs 3, 4, and 9 through 18 are intended to refer to LMM, LMM denies each of the allegations to the extent that any allegation refers to LMM.

9 LMM specifically denies any allegations in paragraph 3, 4, and 9 through 18 that it (i) filed a Realty Transfer Tax Statement of Value ("SOV"), (ii) discussed an SOV or the amendment or refiling of an SOV with the Plaintiffs or their counsel, (iii) intentionally or purposefully filed an inaccurate, fraudulent or untruthful SOV, (iv) violated or in any way breached the terms of the Settlement Agreement, (v) harmed the Plaintiffs through the submission of an SOV or other dissemination of inaccurate or false information.

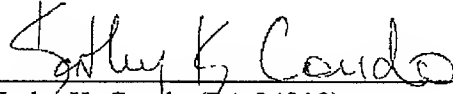
10. LMM denies that the Plaintiffs are entitled to the relief set forth in paragraph 18, including that the Plaintiffs should be released from the confidentiality provisions of the Settlement Agreement, that the Plaintiffs should be permitted to issue a press release regarding the Settlement Agreement or LMM, or that the Plaintiffs should be awarded any costs and fees from LMM

WHEREFORE, LMM respectfully requests that the Court deny the Plaintiffs the relief requested in the Petition, particularly to the extent that such relief would apply to or affect LMM.

Respectfully submitted,

BABST, CALLAND, CLEMENTS AND ZOMNIR, P C

Date January 23, 2012


Kathy K. Condo (PA 34910)
Christopher M. Buell (PA 204068)
Two Gateway Center, Eighth Floor
Pittsburgh, Pennsylvania 15222
(412) 394-5400

Counsel for Defendants
Williams Field Services Company, LLC, and
Laurel Mountain Midstream, LLC

VERIFICATION

I, Kathy K Condo, verify that the facts set forth in the foregoing Answer to Plaintiffs' Emergency Petition for Limited Unsealing of the Record and For a Ruling on the Parties' Settlement Agreement and Release are true and correct to the best of my knowledge, information and belief. I make this Verification subject to the penalties of 19 Pa C S § 4904 relating to unsworn falsifications to authorities.

Date January 23, 2012

Kathy K. Condo
Kathy K. Condo

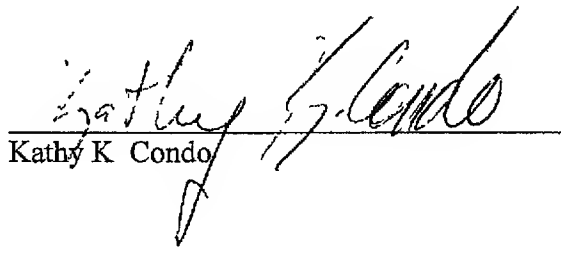
CERTIFICATE OF SERVICE

I certify that a copy of the Defendant Williams Gas/Laurel Mountain Midstreams' Answer to Plaintiffs' Emergency Petition for Limited Unsealing of the Record and For a Ruling on the Parties' Settlement Agreement and Release was served on January 23, 2012, via U S. mail on the following:

Peter M. Villari, Esquire
Villari, Brandes & Khine, P C
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428

Richard W Hosking, Esquire
James C Swetz, Esquire
K&L Gates LLP
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222-2613

Erin W McDowell, Esquire
Eckert Seamans Cherin
& Mellott, LLC
U S Steel Tower
600 Grant Street, 44th Floor
Pittsburgh, PA 15219



Kathy K Condo

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

STEPHANIE HALLOWICH AND CHRIS
HALLOWICH, H/W,

Plaintiffs,

v

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L L C , and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

Docket No 2010-3954

**DEFENDANT MARKWEST ENERGY
PARTNERS, L.P. AND MARKWEST
ENERGY GROUP, L.L.C.'S ANSWER
TO PLAINTIFFS' EMERGENCY
PETITION FOR LIMITED
UNSEALING OF THE RECORD AND
FOR A RULING ON THE PARTIES'
SETTLEMENT AGREEMENT AND
RELEASE**

Counsel of Record for Defendant

Erin W McDowell

Pa I D # 93684

ECKERT SEAMANS CHERIN &

MELLOTT, LLC

600 Grant Street, 44th Floor

Pittsburgh, PA 15219

Tel (412) 566-6000

*Attorneys for Defendants MarkWest
Energy Partners, LP and MarkWest
Energy Group, LLC*

2010-05-24 11:29

STEPHANIE HALLOWICH AND CHRIS
HALLOWICH, H/W,

Plaintiffs,

V

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P ; MARKWEST ENERGY
GROUP, L L C , and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

Docket No 2010-3954

DEFENDANT MARKWEST ENERGY PARTNERS, L.P. AND MARKWEST ENERGY GROUP, L.L.C.'S ANSWER TO PLAINTIFFS' EMERGENCY PETITION FOR LIMITED UNSEALING OF THE RECORD AND FOR A RULING ON THE PARTIES' SETTLEMENT AGREEMENT AND RELEASE

Defendants MarkWest Energy Partners, L P and MarkWest Energy Group, L.L.C (collectively, "MarkWest"), file this Answer to Plaintiffs', unverified, Emergency Petition for Limited Unsealing of the Record and for a Ruling on the Parties' Settlement Agreement and Release ("Unverified Petition"), and aver as follows

1. The allegations in paragraph 1 of the Unverified Petition contain conclusions of law to which no response is required. To the extent a response is required, the allegations are denied. It is specifically denied that any “environmental contamination” or “adverse health exposures” attributable to gas drilling or processing activities of the Defendants occurred

2 The allegations in paragraph 2 of the Unverified Petition are admitted, except that MarkWest is without sufficient information to either admit or deny the allegation that the Court has a copy of the Settlement Agreement

3 See below for response to allegations in paragraph 3 and 4

4 The allegations in paragraph 5 are admitted, except that MarkWest is without sufficient information to either admit or deny the allegation that a key aspect of the Settlement Agreement was the transfer of ownership of the Plaintiffs' resident to Range Resources Corporation ("Range") By way of further response, the Unverified Petition and Joint Motion referred to in paragraph 5 are presently sealed

5 The allegations of paragraph 6 are admitted

6 With respect to the allegations of paragraph 7, it is admitted that the Pittsburgh Post-Gazette filed a Petition to Intervene. To the extent that the allegations in paragraph 7 seek to characterize the Petition to Intervene, MarkWest responds that the Petition to Intervene is a written document that speaks for itself, and no response is required. The remaining allegations of paragraph 7 state conclusions of law to which no response is required To the extent a response is required, it is denied that the Plaintiffs are not a party to the Petition to Intervene filed by the Pittsburgh Post-Gazette or that they are barred from being a party by virtue of the Settlement Agreement.

7 The allegations of paragraph 8 are denied. MarkWest denies that a Joint Motion to Amend the Seal Order was ever filed because the Plaintiffs conditioned their consent to the proposed Joint Motion upon unacceptable terms As to the remaining allegations in paragraph 8, MarkWest is without sufficient information to either admit or deny the allegations

8 While the Plaintiffs in their Unverified Petition make various allegations in paragraphs 3, 4, and 9 through 18 of the Petition in which they refer to "Defendants" without definition, a fair reading of the Unverified Petition indicates that the Plaintiffs' allegations in those paragraphs relate to Range, and therefore, no response by MarkWest is required

9 To the extent that the Plaintiffs' allegations in paragraphs 3, 4, and 9 through 18 are intended to refer to MarkWest, MarkWest denies each of the allegations to the extent that any allegation refers to MarkWest

10 MarkWest specifically denies any allegations in paragraph 3, 4, and 9 through 18 that it: (i) filed a Realty Transfer Tax Statement of Value ("SOV"), (ii) discussed an SOV or the amendment or refile of an SOV with the Plaintiffs or their counsel, (iii) intentionally or purposefully filed an inaccurate, fraudulent or untruthful SOV, (iv) violated or in any way breached the terms of the Settlement Agreement, (v) harmed the Plaintiffs through the submission of an SOV or other dissemination of inaccurate or false information.

11 MarkWest further denies that the Plaintiffs are entitled to the relief set forth in paragraph 18, including that the Plaintiffs should be released from the confidentiality provisions of the Settlement Agreement; that the Plaintiffs should be permitted to issue a press release regarding the Settlement Agreement or MarkWest, or that the Plaintiffs should be awarded any costs and fees from MarkWest

WHEREFORE, MarkWest respectfully requests that the Court deny the Plaintiffs the relief requested in the Unverified Petition, particularly to the extent that such relief would apply to or affect MarkWest

Respectfully submitted,

ECKERT SEAMANS CHERIN & MELLOTT LLC

Date: January 24, 2012

Erin W. McDowell

Erin W. McDowell

Pa I D # 93684

600 Grant Street, 44th Floor

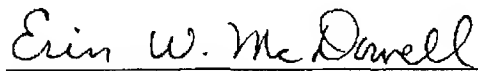
Pittsburgh, PA 15219

Tel: (412) 566-6000

*Attorneys for Defendants MarkWest Energy
Partners, LP and MarkWest Energy Group, LLC*

VERIFICATION

I verify that the facts set forth in Defendant MarkWest's Answer to Plaintiffs' Emergency Petition for Limited Unsealing of the Record and For a Ruling on the Parties' Settlement Agreement and Release are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C S § 4904, relating to unsworn falsification to authorities



Erin W McDowell

Eckert Seamans Cherin & Mellott LLC

*Attorneys for MarkWest Energy Partners, LP and
MarkWest Energy Group LLC*

Dated January 24, 2012

CERTIFICATE OF SERVICE

I certify that a copy of MarkWest Energy Partners, L P and MarkWest Energy Group, L L C 's Answer to Plaintiffs' Emergency Petition for Limited Unsealing of the Record and For a Ruling on the Parties' Settlement Agreement and Release was served on January 24, 2012, via U.S mail on the following

Peter M. Villari, Esquire
Villari, Brandes & Kline, P.C.
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428

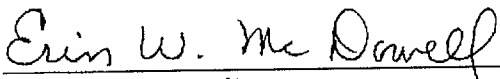
Kathy K Condo
Christopher M Buell
Babst, Calland,
Clements and Zomnir, P C
Two Gateway Center, 6th Floor
Pittsburgh, PA 15222

Frederick N Frank, Esquire
Frank, Gale, Bails, Murcko & Pocrass,
P C
33rd Floor, Gulf Tower
707 Grant Street
Pittsburgh, PA 15219

Gail A Myers, Esquire
DEP-Office of Chief Counsel
400 Waterfront Drive
Pittsburgh, PA 15222-4745

Richard W Hosking, Esquire
James C Swetz, Esquire
K&L Gates LLP
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222-2613

Colin E. Fitch, Esquire
Marriner, Jones & Fitch
800 Washington Trust Building
30 East Beau Street
Washington, PA 15301


Erin W McDowell

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

STEPHANIE HALLOWICH AND CHRIS
HALLOWICH, H/W,

Plaintiffs,

v

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L L C , and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

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Docket No 2010-3954

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PARTNERS, L.P. AND MARKWEST
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TO PLAINTIFFS' EMERGENCY
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Counsel of Record for Defendant

Erin W McDowell

Pa I D # 93684

ECKERT SEAMANS CHERIN &

MELLOTT, LLC

600 Grant Street, 44th Floor

Pittsburgh, PA 15219

Tel (412) 566-6000

*Attorneys for Defendants MarkWest
Energy Partners, LP and MarkWest
Energy Group, LLC*

2012 JUN 24 11:29

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

STEPHANIE HALLOWICH AND CHRIS
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Plaintiffs,

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RANGE RESOURCES CORPORATION,
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PARTNERS, L P ; MARKWEST ENERGY
GROUP, L L C , and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

Docket No 2010-3954

**DEFENDANT MARKWEST ENERGY PARTNERS, L.P. AND MARKWEST ENERGY
GROUP, L.L.C.'S ANSWER TO PLAINTIFFS' EMERGENCY PETITION
FOR LIMITED UNSEALING OF THE RECORD AND FOR A RULING
ON THE PARTIES' SETTLEMENT AGREEMENT AND RELEASE**

Defendants MarkWest Energy Partners, L P and MarkWest Energy Group, L.L.C
(collectively, "MarkWest"), file this Answer to Plaintiffs', unverified, Emergency Petition for
Limited Unsealing of the Record and for a Ruling on the Parties' Settlement Agreement and
Release ("Unverified Petition"), and aver as follows

1. The allegations in paragraph 1 of the Unverified Petition contain conclusions of
law to which no response is required To the extent a response is required, the allegations are
denied. It is specifically denied that any "environmental contamination" or "adverse health
exposures" attributable to gas drilling or processing activities of the Defendants occurred

2 The allegations in paragraph 2 of the Unverified Petition are admitted, except that MarkWest is without sufficient information to either admit or deny the allegation that the Court has a copy of the Settlement Agreement

3 See below for response to allegations in paragraph 3 and 4

4 The allegations in paragraph 5 are admitted, except that MarkWest is without sufficient information to either admit or deny the allegation that a key aspect of the Settlement Agreement was the transfer of ownership of the Plaintiffs' resident to Range Resources Corporation ("Range") By way of further response, the Unverified Petition and Joint Motion referred to in paragraph 5 are presently sealed

5 The allegations of paragraph 6 are admitted

6 With respect to the allegations of paragraph 7, it is admitted that the Pittsburgh Post-Gazette filed a Petition to Intervene. To the extent that the allegations in paragraph 7 seek to characterize the Petition to Intervene, MarkWest responds that the Petition to Intervene is a written document that speaks for itself, and no response is required. The remaining allegations of paragraph 7 state conclusions of law to which no response is required To the extent a response is required, it is denied that the Plaintiffs are not a party to the Petition to Intervene filed by the Pittsburgh Post-Gazette or that they are barred from being a party by virtue of the Settlement Agreement.

7 The allegations of paragraph 8 are denied. MarkWest denies that a Joint Motion to Amend the Seal Order was ever filed because the Plaintiffs conditioned their consent to the proposed Joint Motion upon unacceptable terms As to the remaining allegations in paragraph 8, MarkWest is without sufficient information to either admit or deny the allegations

8 While the Plaintiffs in their Unverified Petition make various allegations in paragraphs 3, 4, and 9 through 18 of the Petition in which they refer to "Defendants" without definition, a fair reading of the Unverified Petition indicates that the Plaintiffs' allegations in those paragraphs relate to Range, and therefore, no response by MarkWest is required

9 To the extent that the Plaintiffs' allegations in paragraphs 3, 4, and 9 through 18 are intended to refer to MarkWest, MarkWest denies each of the allegations to the extent that any allegation refers to MarkWest

10 MarkWest specifically denies any allegations in paragraph 3, 4, and 9 through 18 that it: (i) filed a Realty Transfer Tax Statement of Value ("SOV"), (ii) discussed an SOV or the amendment or refiling of an SOV with the Plaintiffs or their counsel, (iii) intentionally or purposefully filed an inaccurate, fraudulent or untruthful SOV, (iv) violated or in any way breached the terms of the Settlement Agreement, (v) harmed the Plaintiffs through the *submission of an SOV or other dissemination of inaccurate or false information.*

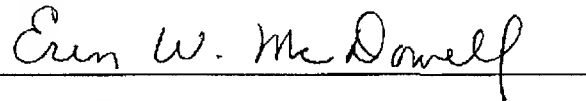
11 MarkWest further denies that the Plaintiffs are entitled to the relief set forth in paragraph 18, including that the Plaintiffs should be released from the confidentiality provisions of the Settlement Agreement; that the Plaintiffs should be permitted to issue a press release regarding the Settlement Agreement or MarkWest, or that the Plaintiffs should be awarded any costs and fees from MarkWest

WHEREFORE, MarkWest respectfully requests that the Court deny the Plaintiffs the relief requested in the Unverified Petition, particularly to the extent that such relief would apply to or affect MarkWest

Respectfully submitted,

ECKERT SEAMANS CHERIN & MELLOTT LLC

Date: January 24, 2012

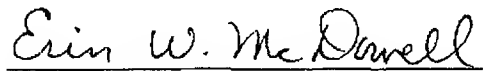
A handwritten signature in cursive script, reading "Erin W. McDowell", is written over a horizontal line.

Erin W. McDowell
Pa I D # 93684
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
Tel: (412) 566-6000

*Attorneys for Defendants MarkWest Energy
Partners, LP and MarkWest Energy Group, LLC*

VERIFICATION

I verify that the facts set forth in Defendant MarkWest's Answer to Plaintiffs' Emergency Petition for Limited Unsealing of the Record and For a Ruling on the Parties' Settlement Agreement and Release are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C S § 4904, relating to unsworn falsification to authorities



Erin W McDowell

Eckert Seamans Cherin & Mellott LLC

*Attorneys for MarkWest Energy Partners, LP and
MarkWest Energy Group LLC*

Dated January 24, 2012

CERTIFICATE OF SERVICE

I certify that a copy of MarkWest Energy Partners, L P and MarkWest Energy Group, L L C 's Answer to Plaintiffs' Emergency Petition for Limited Unsealing of the Record and For a Ruling on the Parties' Settlement Agreement and Release was served on January 24, 2012, via U.S mail on the following

Peter M. Villari, Esquire
Villari, Brandes & Kline, P.C.
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428

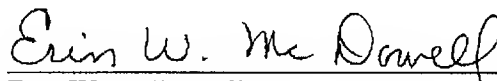
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Erin W McDowell

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

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HALLOWICH, H/W,

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WILLIAMS GAS/LAUREL MOUNTAIN
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PARTNERS, L P , MARKWEST ENERGY
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DEPARTMENT OF ENVIRONMENTAL
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Defendants

Docket No 2010-3954

**DEFENDANT RANGE RESOURCES
CORPORATION'S ANSWER TO
PLAINTIFFS' EMERGENCY
PETITION FOR LIMITED
UNSEALING OF THE RECORD AND
FOR A RULING ON THE PARTIES'
SETTLEMENT AGREEMENT AND
RELEASE**

*Counsel of Record for Defendant Range
Resources - Appalachia, LLC (incorrectly
named as Range Resources Corporation)*

Richard W Hosking, Esq

Pa I D #32982

James C Swetz, Esq

Pa I D #208717

K&L GATES LLP

K&L Gates Center

210 Sixth Avenue

Pittsburgh, PA 15222-2613

Tel (412) 355-6500

2012 JUN 11 PM 3:52

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

STEPHANIE HALLOWICH AND CHRIS
HALLOWICH, H/W,

Plaintiffs,

v

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L L C , and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

Docket No 2010-3954

**DEFENDANT RANGE RESOURCES CORPORATION'S ANSWER TO PLAINTIFFS'
EMERGENCY PETITION FOR LIMITED UNSEALING OF THE RECORD AND FOR
A RULING ON THE PARTIES' SETTLEMENT AGREEMENT AND RELEASE**

Defendant Range Resources Corporation ("Range"),¹ hereby submits this Answer to Plaintiffs'² Emergency Petition for Limited Unsealing of the Record and for a Ruling on the Parties' Settlement Agreement and Release ("Petition") as follows

1 The allegations in Paragraph 1 are denied Paragraph 1 of the Petition contains conclusions of law to which no response is required To the extent a response is deemed necessary, Range specifically denies Plaintiffs' conclusory and unsupported allegations that any "environmental contamination" and "adverse health exposures" attributable to Defendants'

¹ Plaintiffs mistakenly named parent Range Resources Corporation in this action and in the Petition However, Range Resources-Appalachia, LLC, a subsidiary of Range Resources Corporation, operates in Washington County, Pennsylvania, not its parent, Range Resources Corporation

² "Plaintiffs" refers collectively to plaintiffs Stephanie and Chris Hallowich unless otherwise specifically noted

natural gas drilling or processing activities occurred. By way of further response, the Pennsylvania Department of Environmental Protection reviewed water supply sampling data at the Hallowichs' property (179 Avella Road, Hickory, Pennsylvania) and a neighboring property (163 Avella Road, Hickory, Pennsylvania) and concluded there was no evidence supporting the assertion that any of Defendants' natural gas development activities impacted Plaintiffs' water supply or any other water supply. A true and correct copy of this letter is attached as Exhibit A.

2 The allegations in Paragraph 2 are admitted in part and denied in part. Range admits that the parties entered the Settlement Agreement and Release ("Agreement"), that its terms are confidential, and, accordingly, that the parties filed a Joint Motion to Seal the record in this case. Range is, however, without information sufficient to form a belief as to whether the Court has ever been provided a copy of the Agreement. To the extent a response is deemed necessary, Range denies the allegation that the Court has a copy of the Agreement.

3 Range is without knowledge or information sufficient to form a belief as to whether Plaintiffs' Exhibit "A" is a true and correct copy of the "appraisal of Plaintiffs' property" referenced in Paragraph 3. The allegations of Paragraph 3 are therefore denied. Moreover, any such communications relating to the value of Plaintiffs' residence and/or property were made in the context of settlement negotiations and are therefore inadmissible.

4 Range is without information sufficient to form a belief as to the meaning of the vague and undefined term "negligible," or what "information" Plaintiffs are referring to in Paragraph 4. Range therefore denies the allegations in Paragraph 4. Moreover, any such communications relating to the value of Plaintiffs' residence and/or property were made in the context of settlement negotiations and are therefore inadmissible.

5 The allegations in Paragraph 5 are admitted in part and denied in part. Range admits that Plaintiffs filed their Petition for Approval of Settlement of Minors' Action Pursuant to Pa. R. C. P. 2039 and Local Rule 2039.1 on July 28, 2011, but denies any characterization of the contents of the Petition and Joint Motion referred to in Paragraph 5, as the Petition and Joint Motion are presently sealed. Range is also without knowledge or information sufficient to form a belief as to the allegations in Paragraph 5 that transfer of the Plaintiffs' property was a "key aspect" of the Agreement, what "pleadings" Plaintiffs are referring to, or what "pleadings are filed of record." The allegation concerning a "key aspect" of the Agreement is also an unfounded opinion or conclusion to which no response is necessary. Moreover, any allegation concerning a "key aspect" of the settlement relates to communications made in the context of settlement negotiations which are inadmissible.

6 The allegations in Paragraph 6 are admitted.

7 The allegations in Paragraph 7 are admitted in part and denied in part. Range admits that the Pittsburgh Post-Gazette ("PPG") has attempted to intervene in this action by filing a Petition to Intervene on August 31, 2011, approximately four months after the parties executed the Agreement and over seven weeks after the Hallowichs voluntarily dismissed this action pursuant to the Agreement on July 11, 2011, and this case was marked closed. To the extent the allegations in Paragraph 7 seek to characterize the Petition to Intervene, Range responds that the Petition to Intervene is a written document that speaks for itself, and no response is required. Moreover, Range specifically denies that (i) PPG has any right to intervene in this case, because this case was closed when PPG filed its Petition to Intervene, (ii) PPG or Plaintiffs have articulated any legal or factual basis for reopening this case and/or unsealing the record, (iii) PPG's attempt to intervene and unseal the record is "wholly separate

and independent from Plaintiffs' claims," and (iv) Plaintiffs are not a party to PPG's attempt to intervene and unseal the record. By way of further response, as to (iv), the Plaintiffs *clearly are* parties to PPG's attempt to intervene in this matter, because they are parties to the Agreement and have a legal obligation to maintain the confidentiality of the Agreement pursuant to its terms.

8 The allegations in Paragraph 8 are denied. Range specifically denies that the Joint Motion to Amend the Seal Order was ever filed, because Plaintiffs conditioned their consent to the Joint Motion upon terms that were unacceptable to all Defendants in this action. Accordingly, the Joint Motion was not filed.

9 The allegations in Paragraph 9 are admitted in part and denied in part. Range admits that Plaintiffs' counsel sent an original copy of the Special Warranty Deed ("the Deed") executed on June 17, 2011 to the undersigned counsel for Range on or about October 6, 2011. Range denies the remaining allegations in Paragraph 9, as they are characterizations of the Deed. The Deed is a writing that speaks for itself, and therefore no response is required to such characterizations. By way of further response, Range also specifically denies Plaintiffs' allegation in Paragraph 9 that the total consideration actually paid for the property was one hundred dollars. To the contrary, a wire transfer of \$550,000 was made by Range to undersigned counsel at the firm of K&L Gates LLP on June 22, 2011. This wire transfer payment was then included in the total settlement amount that K&L Gates LLP disbursed in a check mailed to Plaintiffs' counsel on or about July 5, 2011. A true and correct copy of the June 22, 2011 wire transfer receipt from Range to K&L Gates is attached as Exhibit B, and a copy of the July 5, 2011 cover letter transmitting the total settlement payment from all Defendants (with the value of that payment redacted) is attached as Exhibit C. Portions of Exhibits B and C have been

redacted to preserve the confidentiality of the terms of the settlement agreement pursuant to its terms

10 The allegations in Paragraph 10 are denied By way of further response, no "confidential information" was submitted to the Pennsylvania Department of Revenue, Bureau of Individual Taxes Moreover, Pennsylvania law requires the completion of a Realty Transfer Tax Statement of Value ("SOV") which must state the actual consideration paid (or the assessed value if there was no or nominal actual consideration) in order to calculate the required 2% transfer tax Plaintiffs were or should have been aware of this requirement, and Range therefore denies Plaintiffs' allegation that they had no notice of the requirement to file the SOV under Pennsylvania law

11 The allegations in Paragraph 11 are denied *First*, Range is without information sufficient to form a belief as to the truth of the allegation as to when Plaintiffs "were made aware of" the Observer-Reporter newspaper article referenced in Paragraph 11 and purportedly attached as Plaintiffs' Exhibit C, and those allegations are therefore denied *Second*, to the extent Plaintiffs' allegations characterize the Observer-Reporter article referenced in Paragraph 11, the Observer-Reporter article is a writing that speaks for itself, and no response is required

12 The allegations in Paragraph 12 are admitted in part and denied in part Range admits only that Range submitted the SOV to the Pennsylvania Department of Revenue, the remaining allegations in Paragraph 12 are denied By way of further response, Pennsylvania law requires the completion of the SOV which must state the actual consideration paid (or the assessed value if there was no or nominal actual consideration) in order to calculate the required 2% transfer tax Plaintiffs were or should have been aware of this requirement, and Range

therefore denies Plaintiffs' allegation that they had no prior notice of the requirement to file the SOV under Pennsylvania law

13 The allegations in Paragraph 13 are denied

14 The allegations in Paragraph 14 are admitted in part and denied in part Range admits that the e-mail exchange referenced in Paragraph 14 took place, but the remaining allegations in Paragraph 14 constitute conclusions of law, unwarranted inferences of fact, and opinions to which no response is necessary To the extent a response is deemed necessary to the remaining allegations in Paragraph 14, those allegations are denied

15 The allegations in Paragraph 15 consist entirely of conclusions of law, unwarranted inferences of fact, and opinions to which no response is necessary To the extent a response is deemed necessary, the allegations in Paragraph 15 are denied

16 The allegations in Paragraph 16 consist entirely of conclusions of law, unwarranted inferences of fact, and opinions to which no response is necessary To the extent a response is deemed necessary, the allegations in Paragraph 16 are denied.

17 The allegations in Paragraph 17 conclusions of law, unwarranted inferences of fact, and opinions to which no response is necessary To the extent a response is deemed necessary, the allegations in Paragraph 17 are denied

18 The allegations in Paragraph 18 conclusions of law, unwarranted inferences of fact, and opinions to which no response is necessary To the extent a response is deemed necessary, the allegations in Paragraph 18 are denied

WHEREFORE, Range respectfully requests that the Court deny the Petition

Date January 24, 2012

K&L GATES LLP



Richard W. Hosking, Esq

Pa. ID # 32982

James C. Swetz, Esq

Pa. ID # 208717

K&L Gates Center

210 Sixth Avenue

Pittsburgh, PA 15222-2613

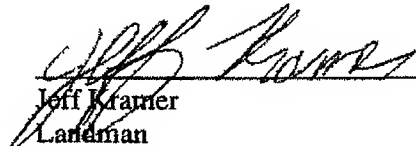
Tel (412) 355-6500

***Counsel for Defendant Range Resources
Corporation***

VERIFICATION

I, Jeff Kramer, am authorized to make this verification on behalf of defendant Range Resources - Appalachia, LLC (mistakenly named as Range Resources Corporation in this matter) and hereby verify that the facts set forth in the foregoing Answer to Plaintiffs' Emergency Petition for Limited Unsealing of the Record and for a Ruling on the Parties' Settlement Agreement and Release are true and correct to the best of my knowledge, information and belief

This statement is made subject to the penalties of 19 Pa C S. § 4904, relating to unsworn falsifications to authorities



Jeff Kramer
Landman
Range Resources - Appalachia, LLC

1-23-12
Date

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Defendant Range Resources Corporation's Answer to Plaintiffs' Emergency Petition for Limited Unsealing of the Record and For a Ruling on the Parties' Settlement Agreement and Release was served on the following individuals via United States mail this 24th day of January, 2012

Peter M. Villari, Esquire
Villari, Brandes & Kline, P C
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428

Gail A. Myers, Esquire
DEP-Office of Chief Counsel
400 Waterfront Drive
Pittsburgh, PA 15222-4745

Erin W. McDowell, Esquire
Eckert Seamans Cherin
& Mellott, LLC
U S Steel Tower
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Kathy K. Condo, Esq
Babst, Calland, Clements & Zomnir, P C
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Marriner, Jones & Fitch
800 Washington Trust Building
30 East Beau Street
Washington, PA 15301



James C. Swetz, Esq



Pennsylvania Department of Environmental Protection

Oil and Gas Program
400 Waterfront Drive
Pittsburgh, PA 15222-4745
August 12, 2009

CERTIFIED MAIL: 7003 2260 0005 8734 7482

Deanna K. Tanner, Esquire
Villari, Brandes & Kline, P C
8 Tower Bridge
161 Washington Street, Suite 400
Conshohocken, PA 19428

Re Stephanie Hallowich Water Well Contamination

Dear Attorney Tanner:

I am responding to your letter dated August 5, 2009 regarding the water supply of Chris and Stephanie Hallowich, located at 179 Avella Road in Mt Pleasant Township, Washington County. Therein, you allege that Range Resources has contaminated the supply and are requesting that DEP issue an order to the company for the replacement/restoration of the supply. After a review of the information, including primarily water analyses, we cannot affirm your conclusions. I will address the five parameters discussed in the "Residential Groundwater Investigation" prepared by RT Environmental Services, Inc. ("RT") that form the basis of your request: styrene, acrylonitrile, iron, lead, and manganese.

As a bit of background, the Range gas well in question was drilled in July of 2007. The Hallowich water well was installed in October, 2007. In addition, Range constructed a lined, centralized fresh water impoundment near the Hallowich home in the summer of 2007.

A general problem in reaching conclusions about the source of any Hallowich water supply contamination is the lack of a pre-drill analysis of the water source prior to the drilling of the Range gas well. We acknowledge that the water supply was not installed until after the gas well was drilled, but we are unable to document the quality of the aquifer prior to the drilling of the gas well. Moreover, the results taken at a neighboring property (163 Avella Road), which is also close to the gas well, only shows a lead problem; the other four parameters are either non-detect or within drinking water standards. Mrs. Hallowich alleges that the drilling of the gas well polluted the aquifer. As the following will demonstrate, we are lacking any direct evidence to prove this assertion.

Concerning styrene, only one of the two analyses reports this contaminant in the Hallowich supply and this at an undetermined concentration. RT's own sampling did not

measure any styrene at the reported detection level. How styrene might be related to gas well drilling is not clear. However, the water lines in the Hollowich household, as well as from the water well to the house, are PVC which contains styrene.

The RT report mentions an impact from acrylonitrile. Again, only the "Hunt" sample reports a number, and RT's sampling did not detect this compound. The report identifies acrylonitrile as a possible constituent of the liner and suggests the latter as the cause because there are no other sources in the area. Acrylonitrile is used in the manufacture of plastics, glues, pesticides, ABS pipe (common drain line pipe used in homes, the "A" in ABS stands for acrylonitrile), synthetic rubber, acrylics, carpets, dinnerware, food containers, toys, luggage, automotive parts, appliance, telephones, among others. It can also be washed from the air by rain and then enter the groundwater system. There is a plastic rock which has been placed over the water well and could be leaching contaminants into the ground during rainfall events, which interestingly enough is when Mrs. Hollowich reports that the acrylonitrile values seem to increase based upon on-going sampling that apparently has been occurring. Unfortunately, a sample could not be taken of the pit contents by RT, which could have helped to determine whether or not acrylonitrile might be leaching from the liner. It should also be noted that there is no established drinking water MCL for this compound, either by DEP or EPA.

Iron is discussed as a contaminant. Four iron analyses were performed on the Hollowich supply, two of those taken on the same day. Only one of those, the "Hunt" sample, shows an iron level above the MCL of 3 mg/l. The others, including the DEP and RT samples taken on June 9, 2009 are below the drinking water standard. We do not believe that an iron contamination of the water supply has been established.

The concentration of lead is high in the 6/9/2009 sample taken by RT. However, the 4/1/2009 result in the "Hunt" sample shows compliance with the Pennsylvania MCL. Assuming that there is a lead problem (and I am not sure that assumption has been verified), we are unclear as to the source and how gas well drilling or the impoundment would have caused lead contamination.

The only parameter that consistently seems to be above the MCL is that for manganese. Manganese (and iron) is a common problem in water supplies in southwest Pennsylvania, whether or not any gas/oil well drilling takes place. It can, however, be caused by drilling via the introduction of air into the aquifer – gas well OR water well drilling. Without any pre-drill data, we cannot determine whether the high manganese level is naturally occurring or due to the drilling of the Range gas well or the Hollowich water well itself.

We have learned that Mrs. Hollowich has been collecting and submitting water samples for analysis on a regular basis. This information is not part of the results you attached to your letter and would be helpful to DEP in analyzing this case.

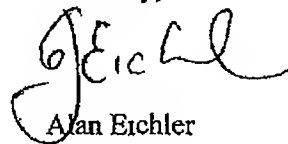
In summary, we question your conclusions about the contamination problems to the Hollowich water supply. The only parameter that is clearly above the MCL is manganese,

and we cannot clearly link it to the drilling of the Range Resources gas well. Therefore, DEP cannot issue a water supply replacement/restoration order to Range Resources.

At the end of your letter, you mentioned noise and air pollution problems. Noise is regulated by the local municipality (Mt Pleasant Township) and not by DEP. Concerning air pollution, DEP has already responded to calls and complaints from Mrs. Hallowich about odor problems from Range's operations. To date, we have not been able to document a violation. There is a gas processing plant near the Hallowich home which does have an Air Quality permit and may be the source of odors. However, this facility is operated by a company named Mark West, not Range Resources. If odors persist, DEP's Air Quality Program should be contacted at 412-442-4000.

I hope the foregoing has addressed your concerns. A copy of this letter is being forwarded to the Hallowich's and Range Resources. If you have any additional questions you may contact me by phone at 412-442-4006 or email at aeichler@state.pa.us.

Sincerely,



Alan Eichler
Oil & Gas Program Manager

Cc: Case file
Jack Crook
Vince Yantko
Bryon Miller
Scott Sabocheck
Chris & Stephanie Hallowich
Range Resources



BNY MELLON
WEALTH MANAGEMENT

IOLTA
Account Number:
Statement Period:
Page:

Transaction Activity

Date	Description	Debits	Credits	Balance
06-22	WIRE TRANSFER CREDIT		550,000.00	
06-30	Closing Balance			

Daily Balance Summary

Date	Ledger Balance	Date	Ledger Balance	Date	Ledger Balance
06-01		06-15		06-22	
06-02		06-16		06-23	
06-08		06-17		06-24	
06-09		06-20		06-28	
06-10		06-21		06-30	

Balances in this section do not include back valued transactions

Checks

Date	Check No.	Amount	Reference No.	Date	Check No.	Amount	Reference No.
06-03	685			06-23	692		
06-03	686			06-24	690		
06-03	687			06-24	691		
06-10	688			06-24	693		
06-17	689			06-30	695		

K&L|GATES

K&L Gates LLP
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222-2613
P 412 355 6500 www.klgates.com

July 5, 2011

Richard W. Hosking
D 412 355 8612
F 412 355 6501
richard.hosking@klgates.com

Via FedEx

Peter M. Villari, Esq.
Villari Brandeis & Kline
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Conshohocken, PA 19428

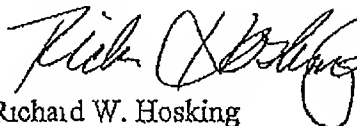
Re: Hallowich Settlement

Dear Pete

Enclosed is our Firm's Check [REDACTED] in the amount of \$[REDACTED] as payment pursuant to [REDACTED] the Settlement Agreement dated June 24, 2011 between Stephanie Hallowich and Chris Hallowich and their children (the "Hallowichs") and Range Resources-Appalachia, L.L.C. ("Range Resources"), Williams Field Services Company, L.L.C. ("Williams") and Laurel Mountain Midstream, L.L.C. ("LMM"), MarkWest Energy Partners, L.P., and MarkWest Energy Group, L.L.C. (collectively "MarkWest") (Range Resources, Williams, LMM and MarkWest are collectively referred to as the "Operators").

As you know, Range has received the executed deed for recording. Please confirm that the Hallowichs have vacated the property. Thanks for your cooperation.

Sincerely,


Richard W. Hosking

RWH:kb
Enclosure

cc: James C. Swetz, Esq.
Kathy K. Condo, Esq.
Erin W. McDowell, Esq.

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

STEPHANIE HALLOWICH AND CHRIS
HALLOWICH, H/W,

Plaintiffs,

v

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L L C , and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

Docket No 2010-3954

**DEFENDANT RANGE RESOURCES
CORPORATION'S BRIEF IN
OPPOSITION TO PLAINTIFFS'
EMERGENCY PETITION FOR
LIMITED UNSEALING OF THE
RECORD AND FOR A RULING ON
THE PARTIES' SETTLEMENT
AGREEMENT AND RELEASE**

*Counsel of Record for Defendant Range
Resources Corporation - Appalachia, LLC
(incorrectly named as Range Resources
Corporation)*

Richard W Hosking, Esq

Pa ID #32982

James C Swetz, Esq

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FILED

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PHYLLIS RAIKO MATHENY
PROthonotary
WASHINGTON COUNTY

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
PREMISES LIABILITY ACTION – CIVIL CASE

STEPHANIE HALLOWICH AND CHRIS)
HALLOWICH, H/W,)

Plaintiffs,)

v)

RANGE RESOURCES CORPORATION,)
WILLIAMS GAS/LAUREL MOUNTAIN)
MIDSTREAM, MARKWEST ENERGY)
PARTNERS, L P , MARKWEST ENERGY)
GROUP, L L C , and PENNSYLVANIA)
DEPARTMENT OF ENVIRONMENTAL)
PROTECTION,)

Defendants)

Docket No 2010-3954

**DEFENDANT RANGE RESOURCES CORPORATION'S BRIEF IN OPPOSITION TO
PLAINTIFFS' EMERGENCY PETITION FOR LIMITED UNSEALING OF THE
RECORD AND FOR A RULING ON THE PARTIES' SETTLEMENT AGREEMENT
AND RELEASE**

Defendant Range Resources Corporation ("Range")¹ hereby submits this Brief in
Opposition ("Opposition Brief") to Plaintiffs' Emergency Petition for Limited Unsealing of the
Record and for a Ruling on the Parties' Settlement Agreement and Release ("Petition")

¹ Plaintiffs mistakenly named parent Range Resources Corporation in this action and in the Petition. However, Range Resources-Appalachia, LLC, a subsidiary of Range Resources Corporation, operates in Washington County, Pennsylvania, not its parent, Range Resources Corporation.

I. INTRODUCTION

Plaintiffs² have filed this Petition in an attempt to upset the confidentiality provisions of a settlement agreement and release which Plaintiffs and Defendants entered into well over six months ago³ However, this attempt fails, because none of the allegations in the Petition are verified by anyone with knowledge of the relevant subject matter The Petition instead consists almost entirely of baseless accusations, unwarranted legal conclusions, and unsupported factual inferences that are wholly irrelevant to the determination of whether any alleged breach of the settlement agreement occurred Furthermore, Plaintiffs have not and cannot establish that any provision of the settlement agreement *was* breached, because the conduct at issue - Range's submission of a Realty Transfer Tax Statement of Value ("SOV") - is *required* under Pennsylvania law for transfers of real property⁴ Although Plaintiffs were or reasonably should have been aware of this requirement, the settlement agreement did not contain any provisions governing the submission of the SOV to the Pennsylvania Department of Revenue ("PADOR"), nor did it require that Range provide notice to Plaintiffs before the SOV was submitted

Finally, Plaintiffs' accusation that the SOV was, among other things, "false," "inaccurate," "fraudulent," or "untruthful" lacks any basis, because Range accurately and truthfully reported to the PADOR the actual consideration that it paid for the Hallowich property

² "Plaintiffs" refers collectively to plaintiffs Stephanie and Chris Hallowich unless otherwise specifically noted

³ Although styled as an "Emergency Petition," the Petition is devoid of any verified facts supporting the conclusion that there is an "emergency" or that an expedited hearing is necessary on the Petition Indeed, Plaintiffs have not sought an expedited hearing

⁴ The Settlement Agreement and Release is confidential by its terms, and all discussion of its provisions has been placed under seal by this Court For the purpose of deciding the Petition, however, Defendants will agree to make the settlement agreement available for the Court to view *in camera* and, if appropriate, can discuss any term of the settlement agreement with the Court in closed chambers

Range's compliance with its legal obligation to report the amount it paid in exchange for taking title to the Hallowich property cannot form the basis for a breach of contract action. Plaintiffs have not identified any provision of the settlement agreement which provided any alternative procedure or notice to Plaintiffs that was to be followed with respect to the reporting of this information to PADOR. The Court should reject Plaintiffs' attempt to impose a contractual duty on Range where none exists under the settlement agreement.

The Court should deny the Petition for the reasons set forth below and in the accompanying Answer to Plaintiffs' Emergency Petition for Limited Unsealing of the Record and for a Ruling on the Parties' Settlement Agreement and Release ("Answer").

II. BRIEF STATEMENT OF FACTS

As the Court is aware,⁵ in late June of 2011, the parties in this matter executed a settlement agreement containing a mutual release of all existing and potential claims. Pursuant to this settlement agreement, on July 11, 2011, the Hallowichs filed a Praecipe for Discontinuance voluntarily dismissing all of their claims against Defendants with prejudice. With the discontinuance of this matter and the release of all existing and potential claims, this litigation ended, and the Court marked the case closed. Pursuant to the confidentiality provisions in the settlement agreement, and this Court's August 23, 2011, order granting the parties' Joint Motion to Seal the Record, the record of this case has been placed under seal.

On November 10, 2011, Plaintiffs filed the Petition before the Court. In sum, the eighteen-paragraph Petition alleges the following post-settlement events: (1) on October 28,

⁵ Defendants respectfully direct the Court to the Statement of Facts set forth in their briefing concerning the Petition to Intervene and Motion to Unseal filed by newspapers the Pittsburgh Post-Gazette and the Observer-Reporter for a more complete discussion of the facts surrounding the commencement and settlement of this action.

2011, Plaintiffs became aware of an article in The Observer-Reporter that discussed the amount of realty transfer tax reported to the PADOR in an SOV, (ii) three days later, Plaintiffs became aware that the SOV was submitted to the PADOR, (iii) Range reported in the SOV that the actual cash consideration paid for the Hallowich's property under the settlement agreement was \$550,000, which was, among other things, false, inaccurate, misleading, and untruthful, and (iv) the reporting of the SOV was therefore a breach of the confidentiality provisions of the parties' settlement agreement.⁶ Notably, although the Petition attempts to allege various facts not of record in this case, the Petition was unverified.

On the basis of the foregoing, Plaintiffs have requested "immediate emergency Court intervention" in the form of an order awarding the following relief: (i) allowing Plaintiffs to advise the PADOR of "the inaccurate and false SOV document" by allowing disclosure of the settlement agreement and associated documents to PADOR, (ii) granting leave to Plaintiffs to issue a press release to "correct" the amount reported in the SOV, (iii) releasing Plaintiffs from the confidentiality provisions of the settlement agreement, and (iv) an award of attorneys' fees and costs incurred by Plaintiffs in the filing of this Petition.⁷

Range submit this Opposition Brief to address the single issue posed by the Court's Rule to Show Cause - *i.e.* whether Plaintiffs are entitled to an order invalidating the confidentiality provisions of the settlement agreement because Range complied with its legal obligation to report to PADOR the consideration paid in return for taking title to the Hallowich property. Range respectfully submits that the answer to this question is "no."

⁶ See Petition, at ¶¶ 11-18.

⁷ *Id.* at ¶ 18. Specifically, the Court has issued a Rule to Show Cause to Defendants as to why the record in this case should not be unsealed to the extent necessary to accomplish the relief requested by Plaintiffs.

III. ARGUMENT

Range respectfully requests that the Court deny the Petition for at least two reasons. *First*, the Court should deny the Petition because it is unverified and consists entirely of legal conclusions and unwarranted factual inferences that the Court should disregard in ruling on the Petition. *Second*, if the Court decides to consider the Petition's allegations, Plaintiffs have offered no reasonable basis for the Court to conclude that Range or any other Defendant breached any obligation imposed by the settlement agreement as a result of Range's submission of the SOV to PADOR. Under both of these rationales, Plaintiffs' Petition should be denied as a matter of law, because the Petition fails to create a genuine question of material fact as to any of the issues relevant to Plaintiffs' baseless claims of breach.

A. Governing Legal Rules And Standards

Local Rule 206 4(C) of the Court of Common Pleas of Washington County ("L R 206 4(C)") provides the procedure governing disposition of petitions. L R 206 4(C) states that issuance of a Rule to Show Cause upon the filing and presentation of a petition "shall be discretionary with the Court[.]" and that, "in the event that a Rule to Show Cause is issued, the procedure is then governed by Pa. R C P 206 7." Here, the Court issued a Rule to Show Cause in response to the filing of the Petition. Pa. R C P 206 7 therefore applies.

Pa. R C P 206 7 provides

- (a) If an answer is not filed, all averments of fact in the petition may be deemed admitted for the purposes of this subdivision and the court shall enter an appropriate order.
- (b) If an answer is filed raising no disputed issues of material fact, the court on request of the petitioner shall decide the petition on the petition and answer.
- (c) If an answer is filed raising disputed issues of material fact, the petitioner may take depositions on those issues, or such other

discovery as the court allows, within the time set forth in the order of the court. If the petitioner does not do so, the petition shall be decided on petition and answer and all averments of fact responsive to the petition and properly pleaded in the answer shall be deemed admitted for the purpose of this subdivision.

(d) The respondent may take depositions, or such other discovery as the court allows.

Range has filed an Answer to the Petition with this Opposition Brief in accordance with Pa R C P 206.2.⁸ As discussed in more detail below, this Answer raises no issues of disputed material fact, because Plaintiffs have failed to assert any verified, well-pleaded facts in the Petition.

Pa R C P. 206.3 also imposes another requirement on petitions - "[a] petition or an answer containing an allegation of fact which does not appear of record shall be verified."

Plaintiffs' Petition is unverified. Range has submitted a verification in support of its Answer to the Petition.

B. The Court Should Deny The Petition

The Court should deny the Petition as a matter of law for at least two reasons. *First*, the Petition is deficient, and raises no disputed issues of material fact, because it is unverified and contains only legal conclusions and unwarranted factual inferences which fail to raise any issues of fact material to the dispute before the Court. Accordingly, the Court should deny it outright and no discovery on the Petition is necessary. *Second*, to the extent the Court considers Plaintiffs' allegations, the Petition still fails to establish a right to relief and should be denied as a matter of law, because Plaintiffs have not established and cannot establish that any provision of

⁸ Pa R C P 206.2 provides that an answer to a petition "shall state the material facts which constitute the defense to the petition [and] shall be divided into paragraphs, numbered consecutively, corresponding to the numbered paragraphs of the petition."

the settlement agreement was breached by Range's compliance with Pennsylvania's tax reporting requirements

1. The Petition Is Deficient, And Should Be Denied, Because It Is Unverified And Fails To Properly Plead Facts Creating A Genuine Issue Of Material Fact

As a preliminary matter, Plaintiffs' Petition is unverified, and should be denied "[T]he requirement of a verification is not waivable because without it a pleading is mere narration, and amounts to nothing" *Atl Credit and Fin, Inc v Gulana*, 829 A 2d 340, 344 (Pa Super 2003) (quoting Goodrich Amram 2d § 1024(a) 1 and sustaining preliminary objections to unverified complaint), *see also M&M Transp Co v Theofilos*, 50 Pa D & C 2d 780, 782-83 (Pa Com Pl, Mercer C'ty 1971) (dismissing rule to show cause why petitioner, who filed answer after default judgment was entered, should not be permitted to file an answer containing new matter and a petition to strike judgment, where petition giving rise to rule to show cause was unverified by person with knowledge) ⁹

Here, the Petition is replete with purported allegations of fact that lack any support in the record or elsewhere in the Petition. For example, Plaintiffs allege in the Petition that the taxable amount reported in the SOV was, *inter alia*, "false," or "inaccurate," that it was intended to cause "embarrassment" or "harm" to Plaintiffs, that it was submitted "for the purpose of garnering a public relations windfall," and that the reported value was a breach of the confidentiality provisions in the settlement agreement. Petition, at ¶¶ 13 - 17. These allegations find no support anywhere in the record. In particular, the allegation that the amount reported to PADOR in the SOV was "false" or "inaccurate" is clearly refuted by the actual consideration (\$550,000) that

⁹ Case law interpreting the verification requirement for pleadings pursuant to Pa R C P 1024 is also applicable to the verification requirement for petitions. *See Monroe Contract Corp v Harrison Square, Inc*, 405 A 2d 954, 957 (Pa Super 1979)

Range paid to Plaintiffs for their property¹⁰ The Petition was not verified, and it should be denied At a minimum, these allegations should be disregarded as unsupported by any verification or facts of record

Furthermore, even if the Court excuses the lack of a verification, there are no well-plead facts in the Petition creating an issue of material fact relevant to the dispute before the Court In deciding whether a petition has stated a claim for relief or created an issue of fact, the Court need not accept legal conclusions or unwarranted factual inferences *See, e g , In re Appeal of Puricelli*, 709 A 2d 1003, 1007 (Pa Cmwlth 1998) (disregarding averments in Township's petition that party lacked standing and that party's appeal was vexatious, arbitrary and in bad faith as legal conclusions pursuant to Pa R C P Nos 206 1-206 7)

Thus, the Court should disregard Plaintiffs' allegations that the amount reported for tax purposes to PADOR was a breach of the confidentiality provisions in the settlement agreement or that it was false, inaccurate, fraudulent, or intended to harm or in any way embarrass Plaintiffs, because these are either (i) unverified factual inferences that lack any support in the record, or (ii) unwarranted legal or factual conclusions which fail to create an issue of material fact as to whether any breach of the settlement agreement has occurred Accordingly, the Court should deny the Petition

2. The Court Should Deny The Petition Because Range Did Not Breach Any Provision Of The Settlement Agreement

To state a claim for breach of contract, a plaintiff must allege facts, and not mere legal conclusions or unwarranted inferences of fact, supporting the following elements "(1) the existence of a contract, including its essential terms, (2) breach of a duty imposed by contract,

¹⁰ See Exhibits B and C to the Answer

and (3) resulting damages ” *Sullivan v Chartwell Investment Partners, LP*, 873 A 2d 710, 716 (Pa Super 2005) Plaintiffs’ Petition fails to establish - or create a genuine issue of material fact as to - the element of breach The Court should therefore deny the Petition for this reason as well

Plaintiffs appear to insinuate that a breach of the settlement agreement has occurred based on the following (i) Range submitted to the PADOR the SOV, which stated that the actual cash consideration paid for the property was \$550,000, and (ii) this was a breach of the confidentiality provision of the settlement agreement Petition, at ¶¶ 13 - 17 However, Plaintiffs do not purport to identify any provision in the settlement agreement which imposed a duty on Range to not report the actual consideration that it paid for the property to PADOR Nor can they, because a contract provision that compels a party to not comply with the law is void *ab initio* as a matter of public policy See *Rittenhouse v Barclay White, Inc*, 625 A 2d 1208, 1211 (Pa Super 1993) (noting well-established principle that an agreement that violates a statutory provision, or that cannot be performed without violation of such provision, is illegal, void, and unenforceable)

Plaintiffs also fail to even suggest the existence of a settlement agreement provision requiring Range to give Plaintiffs prior notice of the amount of consideration paid for the property to be reported to PADOR in the SOV ¹¹ This is also not surprising, as Plaintiffs were or should have been aware that Range was required to report either the actual consideration paid for the property (or the assessed value if there was no or nominal consideration) to PADOR for

¹¹ Indeed, the \$550,000 amount that Range paid in consideration for the property transfer does not appear anywhere as a term in the settlement agreement As the agreed-upon settlement terms provided no statement of the property value, Range reported the actual consideration paid in the SOV to PADOR for purposes of calculating and paying the transfer tax required under Pennsylvania law

transfer tax purposes See 61 PA CODE § 91 132(a) ("In a bona fide sale of real estate, the value of the real estate is the total agreed consideration for the sale which is paid or to be paid ") Plaintiffs were presumably well aware of this fact when the parties entered the settlement agreement, but the agreement contains no provision concerning any alternative procedure or notice requirement addressing the amount to be reported to PADOR in the SOV other than that required under PADOR regulations

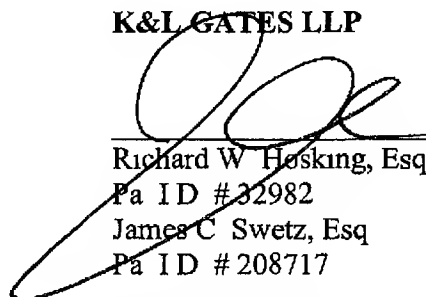
Accordingly, the Court should reject Plaintiffs' efforts to impose a contractual duty on Range where none exists Range respectfully requests that the Court deny the Petition

IV. CONCLUSION

Based on the foregoing reasons, and those set forth in the Answer to Plaintiffs' Petition, Range respectfully requests that the Court deny the Petition.

Date January 24, 2012

K&L GATES LLP



Richard W. Hosking, Esq
Pa ID #32982
James C. Swetz, Esq
Pa ID #208717

K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222-2613
Tel (412) 355-6500

***Counsel for Defendant Range Resources
Corporation***

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Defendant Range Resources Corporation's Brief In Opposition to Plaintiffs' Emergency Petition for Limited Unsealing of the Record and for a Ruling on the Parties' Settlement Agreement and Release was served on the following individuals via United States mail this 24th day of January, 2012

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Conshohocken, PA 19428

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James C. Swetz, Esq

VILLARI, BRANDES & KLINE, P.C.

By: Peter M. Villari, Esquire
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 8 Tower Bridge, Suite 400
 161 Washington Street
 Conshohocken, PA 19428
 610-729-2900

Attorneys for Plaintiffs

**IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY,
 PENNSYLVANIA
 PREMISES LIABILITY ACTION - CIVIL CASE**

STEPHANIE HALLOWICH AND CHRIS
 HALLOWICH, H/W,

Plaintiffs,

v.

RANGE RESOURCES CORPORATION;
 WILLIAMS GAS/LAUREL MOUNTAIN
 MIDSTREAM; MARKWEST ENERGY
 PARTNERS, L.P.; MARKWEST
 ENERGY GROUP, L.L.C.; and
 PENNSYLVANIA DEPARTMENT OF
 ENVIRONMENTAL PROTECTION,

Defendants.

CIVIL ACTION

Docket No. 2010-3954

2012 JUN 21 11:10:23

PLAINTIFFS' PRAECIPE TO ATTACH VERIFICATION

Plaintiffs, Stephanie and Chris Hallowich, and their minor children ("Plaintiffs") by and through their undersigned attorneys, Villari, Brandes & Kline, P.C., file a Praecipe to Attach Verification and assert as follows:

1. The matter herein involves complex legal issues relating to environmental contamination and adverse health exposure attributable to the gas drilling and processing activities of

Defendants Range, William Gas and Laurel Mountain, and MarkWest at or around Plaintiffs' prior home and property located at 179 Avella Road, Hickory, PA 15340.

2. On November 14, 2011, Plaintiffs filed an Emergency Petition for Limited Unsealing of the Record and for a Ruling on the Parties' Settlement Agreement and Release "Petition."

3. Plaintiffs now seek through their counsel to attach a Verification to such Petition, attached herein as Exhibit "A."

Respectfully submitted,

VILLARI, BRANDES & KLINE, P.C.

BY: Peter M. Villari Pete Upton
Peter M. Villari, Esquire
Attorney I.D. # 26875
161 Washington Street,
8 Tower Bridge, Suite 400
Conshohocken, PA 19428
Tele: 610-729-2900
Fax: 610-729-2910
Attys. for Plaintiffs

ORIGINAL

January 31, 2012

Exhibit

A

VERIFICATION

I, Pete M. Villari, hereby verify that the statements made in Plaintiff's Emergency Petition for Limited Unsealing of the Record and for a Ruling on the Parties' Settlement Agreement and Release, are true and correct to the best of my knowledge, information and belief. I understand that the statements therein are made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.



Peter M. Villari, Esq.

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH

Plaintiff,

vs.

No. 2010-3954

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARK WEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L.L.C., AND PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

FILED

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ORDER

AND NOW, this 31st day of January, 2012, after review of the Joint Petition for Intervention filed by PG Publishing Company and Observer Publishing ("Proposed Intervenor") it is hereby **ORDERED, ADJUDGED** and **DECREED** that the Proposed Intervenor's Petition for a Hearing is **DENIED** as there is no factual issue which would require this Court to have a hearing.

The Petition to Intervene and Motion to Unseal the Record is not proper under the Pennsylvania Rules of Civil Procedure. The Superior Court has held:

To petition the court to intervene after a matter has been finally resolved is not allowed by our Rules of Civil Procedure. It is only during the pendency of an action that the court may allow intervention Pa R.C.P. 2327. An action is "pending", according to Black's Law Dictionary (5th Ed), when it is

begun, but not yet completed; during, before the conclusion of;
prior to the completion of; unsettled, undetermined; in process

of settlement or adjustment. Thus, an action or suit is "pending" from its inception until the rendition of final judgment.

As our Commonwealth Court recognized in ***Santangelo Hauling, Inc. v. Montgomery County***, 479 A.2d 88 (1984), where a court no longer has power to permit intervention because a matter has been finally adjudicated, a hearing on a petition to intervene would be pointless.

In re Estate of Albright, 545 A.2d 896, 899 (Pa. Super. 1988), appeal denied, 522 Pa. 571, 559 A.2d 33 (Pa. 1989) ***See also In re T.T.***, 842 A.2d 962 (Pa. Super. 2004), and ***Wecht v. Roddey***, 815 A.2d 1146 (Pa. Commw. Ct. 2004)

The Petition to Intervene and Motion to Unseal the Record fails to comply with the Pennsylvania Rules of Civil Procedure, as it was not filed during the pendency of an action. ***Pa.R.C.P. 2327***. For that reason, and in following the Superior Court's jurisprudence in ***Albright***, the Petition to Intervene and Motion to Unseal the Record is hereby **DENIED**.

BY THE COURT:


Paul Pozonsky, Judge

J.

ENTRY OF OPINION ORDER PUBLISHED 1-31-12

2-1-12

G Myers
P Villani
E McDowell
F Frank
C Fitch

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH

Plaintiff,

vs.

No. 2010-3954

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARK WEST ENERGY
PARTNERS, L.P., MARKWEST ENERGY
GROUP, L.L.C., AND PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants.

2012 FEB -1 PM 4:02

ORDER

AND NOW, this 1st day of February, 2012, after review of the Plaintiffs' Emergency Petition for Limited Unsealing of the Record and for a Ruling on the Parties' Settlement Agreement it is hereby **ORDERED, ADJUDGED** and **DECREED** that the Petition is hereby **DENIED** for failure to attach a Statement of Verification from counsel or the parties as required by Pennsylvania Rule of Civil Procedure 206.3

BY THE COURT:

Paul Pozonsky, Judge

J.

PROPERTY OF THE U.S. GOVERNMENT
2-1-12
2-2-12

D Villan:
G Myers
E McDowell
K Condo
F Frank
C Fitch

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH and
CHRIS HALLOWICH, H/W,

Plaintiffs

v

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

No C-63-CV-201003954

NOTICE OF APPEAL OF OBSERVER
PUBLISHING COMPANY D/B/A
OBSERVER-REPORTER

Filed on behalf of Observer Publishing
Company d/b/a Observer-Reporter

Counsel of Record for this Party.
MARRINER, JONES & FITCH
800 Washington Trust Building
30 East Beau Street
Washington, PA 15301
(724) 225-6600

Colin E Fitch, Esquire
PA ID #56710

2012 FEB -9 10:11:33

4000
10/11/12

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH and
CHRIS HALLOWICH, H/W,

Plaintiff

v

No C-63-CV-201003954

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P., MARKWEST ENERGY
GROUP, LLC and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

**NOTICE OF APPEAL OF OBSERVER PUBLISHING
COMPANY D/B/A OBSERVER-REPORTER**

Notice is hereby given that OBSERVER PUBLISHING COMPANY d/b/a OBSERVER-REPORTER, Proposed Intervenor, hereby appeals to the Superior Court of Pennsylvania from the Order entered in this matter by the Honorable Paul Pozonsky on January 31, 2012. The docket entries cannot be attached because the record is sealed. The transcript of the proceeding on January 31, 2012 has been ordered. No further proceedings that led to the entrance of the January 31, 2012 Order were recorded and, therefore, no further transcripts can be ordered. Attached is a copy of the Request for Transcript, Certification and Waiver.

MARRINER, JONES & FITCH

BY



Colin E Fitch

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH and
CHRIS HALLOWICH, H/W,

Plaintiff

v

No C-63-CV-201003954

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, LLC and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

PROOF OF SERVICE

I, Colin E Fitch, Esquire, do hereby certify that a true and correct copy of the foregoing Notice of Appeal was served upon the following, this 9th day of February, 2012, via the manner indicated below, which satisfies the requirements of Pa R A P 121

Via hand-delivery.

Honorable Paul Pozonsky
Washington County Courthouse
1 South Main Street – Suite 1004
Washington, PA 15301

Via first-class mail

Attorney for PA DEP
Gail A. Myers, Esquire
400 Waterfront Drive
Pittsburgh, PA 15222

Attorney for Markwest Energy
Erin Windle McDowell, Esquire
600 Grant Street – 44th Floor
Pittsburgh, PA 15219

Attorney for Wms Gas/Laurel Mountain
Kathy K Condo-Caritis, Esquire
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222

Attorney for Range Resources
James C Swetz, Esquire
K&L Gates, LLP
210 Sixth Avenue
Pittsburgh, PA 15222

Attorney for Hallowich
Peter Villari, Esquire
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428

Attorney for Post-Gazette
Frederick N. Frank, Esquire
Frank, Gale, Bails, Murcko & Pocrass, P.C.
707 Grant Street, Suite 3300
Pittsburgh, PA 15219

MARRINER, JONES & FITCH

BY

Colin E. Fitch
Colin E. Fitch

PROTHONOTARY'S OFFICE, WASHINGTON, PENNSYLVANIA

\$ 72.50

2 + 50 19

Received of

Supriya Singh

Seventy two and 50/100 DOLLARS

Supriya Singh

25 1/2 22

No 3010-7451

Frederick N. Frank, Esquire

PROTHONOTARY

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W

Plaintiffs,

vs

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L L C , AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendants.

No C-63-CV-201003954

**PG PUBLISHING COMPANY'S
NOTICE OF APPEAL**

Filed on behalf of Proposed Intervenor
PG Publishing Company d/b/a
The Pittsburgh Post-Gazette

Counsel of Record for this Party

Frederick N Frank, Esquire
Pa ID #10395

Ellis W Kunka, Esquire
Pa ID #311929

FRANK, GALE, BAILS, MURCKO
& POCRASS, P C
Firm ID No 892
33rd Floor, Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
(412) 471-5912

20121103-0
FEB 11 11:36

47
02
PT
24

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W,

Plaintiffs,

vs

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L L.C , AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendants

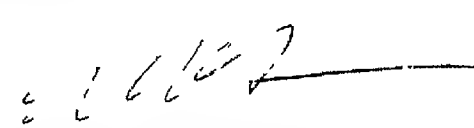
No C-63-CV-201003954

PG PUBLISHING COMPANY'S NOTICE OF APPEAL

Notice is hereby given that PG PUBLISHING COMPANY, Proposed Intervenor, hereby appeal to the Superior Court of Pennsylvania from the Order entered in this matter by the Honorable Paul Pozonsky on January 31, 2012. The docket entries cannot be attached because the record is sealed. The transcript of the proceeding on January 31, 2012 has been ordered. No further proceedings that led to the entrance of the January 31, 2012 Order were recorded and, therefore no further transcripts can be ordered. Attached is a copy of the Request for Transcript, Certification and Waiver.

FRANK, GALE, BAILS, MURCKO &
POCRASS, P C

By


Frederick N Frank, Esquire

By Ellis W. Kunka
Ellis W Kunka, Esquire

Date 2/9/12

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W,

Plaintiffs,

vs

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L L C , AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendants

No C-63-CV-201003954

PROOF OF SERVICE

I, Frederick N Frank, Esquire, hereby certify that a true and correct copy of the foregoing notice of appeal was served upon the following, this 12 day of February, 2012, via the manner indicated below, which satisfies the requirements of Pa. R A P 121:

The Honorable Paul Pozonsky, Judge
Washington County Court of Common Pleas, Civil Division
Washington County Courthouse 1 South Main Street
Suite 1004
Washington, PA 15301
(via hand delivery)

Gail A Myers, Esquire
400 Waterfront Dr
Pittsburgh, PA 15222
(Counsel for Pennsylvania Department of
Environmental Protection)
(via facsimile)

Erin Windle McDowell, Esquire
44th Floor, 600 Grant Street
Pittsburgh, PA 15219
(Counsel for MarkWest Energy Partners
L P & MarkWest Energy Group, L L.C)
(via hand delivery)

Kathy K. Condo-Caritis, Esquire
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222
(Counsel for Williams Gas/Laurel Mountain
Midstream)
(via hand delivery)

James C. Swetz, Esquire
K & L Gates, L L P
K & L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222
(Counsel for Range Resources Corporation)
(via hand delivery)

Peter Villari, Esquire
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428
(Counsel for Plaintiffs)
(via facsimile)

Colin E. Fitch
Marriner, Jones & Fitch
800 Washington Trust Building
30 East Beau Street
Washington, PA 15301
(Counsel for Washington Observer)
(via hand delivery)

Frederick N. Frank
Frederick N. Frank, Esquire
Attorneys for Proposed Intervenor

PROTHONOTARY'S OFFICE, WASHINGTON, PENNSYLVANIA

\$ 2250 7-1-2012 19

Received of Frederick N. Frank, Esquire

Two thousand two hundred fifty DOLLARS

No 2010-3451 Frederick N. Frank 10-10-11

PROTHONOTARY

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W

Plaintiffs,

vs.

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P., MARKWEST ENERGY
GROUP, L L C., AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendants

No. C-63-CV-201003954

**PG PUBLISHING COMPANY'S
REQUEST FOR TRANSCRIPT**

Filed on behalf of Proposed Intervenor
PG Publishing Company d/b/a
The Pittsburgh Post-Gazette

Counsel of Record for this Party.

Frederick N Frank, Esquire
Pa. I D #10395

Ellis W Kunka, Esquire
Pa I D #311929

FRANK, GALE, BAILS, MURCKO
& POCRASS, P.C
Firm I D No 892
33rd Floor, Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
(412) 471-5912

2012 FEB -9 AM 11:36

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W,

Plaintiffs,

vs

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L L C., AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendants

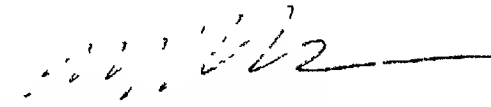
No C-63-CV-201003954

PG PUBLISHING COMPANY'S REQUEST FOR TRANSCRIPT

A notice of appeal having been filed in this matter, PG PUBLISHING COMPANY, Proposed Intervenor, hereby requests pursuant to Rule 1911 of the Pennsylvania Rule of Appellate Procedure that the official court reporter produce, certify and file the transcript of the proceedings in this matter held on January 31, 2012 in conformity with Rule 1922 of the Pennsylvania Rules of Appellate Procedure

FRANK, GALE, BAILS, MURCKO &
POCRASS, P C.

By


Frederick N Frank, Esquire

By Ellis W Kunka
Ellis W Kunka, Esquire

Date 2/9/12

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W,

Plaintiffs,

vs

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L L C , AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendants

No C-63-CV-201003954

PROOF OF SERVICE

I, Frederick N Frank, Esquire, hereby certify that I am this 27th day of February,
2012, serving the foregoing request for transcript upon the persons via the manner indicated
below, which satisfies the requirements of Pa R. A P 121

The Honorable Paul Pozonsky, Judge
Washington County Court of Common Pleas, Civil Division
Washington County Courthouse 1 South Main Street
Suite 1004
Washington, PA 15301
(via hand delivery)

Gail A Myers, Esquire
400 Waterfront Dr
Pittsburgh, PA 15222
(Counsel for Pennsylvania Department of
Environmental Protection)
(via facsimile)


Erin Windle McDowell, Esquire
44th Floor, 600 Grant Street
Pittsburgh, PA 15219
(Counsel for MarkWest Energy Partners
L.P & MarkWest Energy Group, L L C)
(via hand delivery)

Kathy K. Condo-Caritis, Esquire
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222
(Counsel for Williams Gas/Laurel Mountain
Midstream)
(via hand delivery)

James C. Swetz, Esquire
K & L Gates, L L P
K & L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222
(Counsel for Range Resources Corporation)
(via hand delivery)

Peter Villari, Esquire
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428
(Counsel for Plaintiffs)
(via facsimile)

Colin E. Fitch
Marriner, Jones & Fitch
800 Washington Trust Building
30 East Beau Street
Washington, PA 15301
(Counsel for Washington Observer)
(via hand delivery)



Frederick N. Frank, Esquire
Attorneys for Proposed Intervenor

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH and
CHRIS HALLOWICH, H/W,

Plaintiffs

v

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P , and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

No. C-63-CV-201003954

REQUEST FOR TRANSCRIPT BY
OBSERVER PUBLISHING COMPANY
D/B/A OBSERVER-REPORTER

Filed on behalf of Observer Publishing
Company d/b/a Observer-Reporter

Counsel of Record for this Party:
MARRINER, JONES & FITCH
800 Washington Trust Building
30 East Beau Street
Washington, PA 15301
(724) 225-6600

Colin E. Fitch, Esquire
PA ID #56710

2012 FEB 3 - 9 PM 11:33
AA

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH and
CHRIS HALLOWICH, H/W,

Plaintiff

v

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARK WEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, LLC and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

No. C-63-CV-201003954

**REQUEST FOR TRANSCRIPT BY OBSERVER PUBLISHING
COMPANY D/B/A OBSERVER-REPORTER**

A Notice of Appeal having been filed in this matter, OBSERVER PUBLISHING COMPANY d/b/a OBSERVER-REPORTER, Proposed Intervenor, hereby requests pursuant to Rule 1911 of the Pennsylvania Rules of Appellate Procedure that the official court reporter produce, certify and file the transcript of the proceedings in this matter held on January 31, 2012 in conformity with Rule 1922 of the Pennsylvania Rules of Appellate Procedure.

MARRINER, JONES & FITCH

BY



Colin E. Fitch

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH and
CHRIS HALLOWICH, H/W,

Plaintiff

v

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, LLC and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

No. C-63-CV-201003954

PROOF OF SERVICE

I, Colin E Fitch, Esquire, do hereby certify that a true and correct copy of the foregoing Request for Transcript was served upon the following, this 9th day of February, 2012, via the manner indicated below, which satisfies the requirements of Pa R.A.P. 121

Via hand-delivery

Honorable Paul Pozonsky
Washington County Courthouse
1 South Main Street – Suite 1004
Washington, PA 15301

Mary Anne Curran, Court Reporter
Washington County Courthouse
1 South Main Street – Suite 1004
Washington, PA 15301

Via first-class mail

Attorney for PA DEP
Gail A Myers, Esquire
400 Waterfront Drive
Pittsburgh, PA 15222

Attorney for Wms Gas/Laurel Mountain
Kathy K Condo-Cartis, Esquire
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222

Attorney for Markwest Energy
Erin Windle McDowell, Esquire
600 Grant Street – 44th Floor
Pittsburgh, PA 15219


Attorney for Range Resources
James C. Swetz, Esquire
K&L Gates, LLP
210 Sixth Avenue
Pittsburgh, PA 15222

Attorney for Hollowich
Peter Villari, Esquire
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428

Attorney for Post-Gazette
Frederick N Frank, Esquire
Frank, Gale, Bails, Murcko & Pocrass, P C
707 Grant Street, Suite 3300
Pittsburgh, PA 15219

MARRINER, JONES & FITCH

BY



Colin E Fitch

WASHINGTON COUNTY COURT ADMINISTRATOR'S OFFICE
WASHINGTON COUNTY COURTHOUSE
WASHINGTON, PA 15301
(724) 228-6797

TRANSCRIPT REQUEST FORM

Pursuant to Pa Rule of Judicial Administration 5000.5, the following transcript is requested

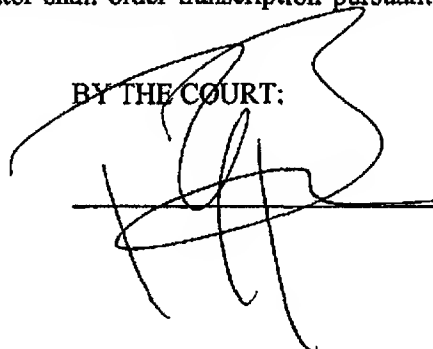
Date of Request: February 9, 2012 Date of Hearing: January 31, 2012
Case Name: Stephanie Hallowich, et con
v. Range Resources Corp., et al.
Case No.: C-63-CV-201003954 Courtroom No 1004
Presiding Judge: Honorable Paul Pozonsky
Type of Proceeding: Intervention in Tort Case
Requested by Colin E. Fitch, Esquire
Contact information: Marriner, Jones & Fitch
30 East Beau Street, Suite 800
Washington, PA 15301
(724) 225-6600

FILED
12 FEB 17 PM 4:03

ORDER OF COURT

AND NOW, this 17th day of February, 2012, after presentation and consideration of the request for transcription, it is hereby ORDERED, ADJUDGED and DECREED that the Court Administrator shall order transcription pursuant to the provisions of Pa R J A 5000 5 and 5000 6.

BY THE COURT:



Judge

COPY OF OPINION. ORDER, DECREE,
ADJUDICATION OR JUDGMENT FILED 2-17-12
MAILED 21-12

Fitch, Colin. Esq.
Curran, Mary Anne. Ct Reporter - New

Appeal Docket Sheet

Superior Court of Pennsylvania

Docket Number: 234 WDA 2012

Page 1 of 4

February 17, 2012

Secure



CAPTION

Stephanie Hallowich and Chris Hallowich, h/w

v

Range Resources Corporation, Williams Gas/Laurel Mountain Midstream Markwest Energy Partners, L P, Markwest Energy Group, LLC and Pennsylvania Department of Environmental Protection

Appeal of Observer Publishing Company d/b/a Observer-Reporter, Proposed Intervenor

CASE INFORMATION

Initiating Document Notice of Appeal

Case Status Active

Case Processing Status February 15, 2012 Awaiting Original Record

Journal Number

Case Category Civil Case Type(s) Trespass

CONSOLIDATED CASES

RELATED CASES

Docket No / Reason	Type
235 WDA 2012	Related
Same Issue(s)	

SCHEDULED EVENT

Next Event Type Receive Docketing Statement

Next Event Due Date March 2 2012

Next Event Type Original Record Received

Next Event Due Date April 9, 2012

COUNSEL INFORMATION

Appellant Observer Publishing Company d/b/a Observer-Reporter

Pro Se No Appoint Counsel Status Represented

IFP Status No

Attorney Fitch, Colin Emerson
 Bar No 056710
 Law Firm Marriner, Jones & Fitch
 Address 800 Washington Trust Building
 30 E Beau St
 Washington PA 15301
 Phone No (724) 225-6600 Fax No
 Receive Mail Yes
 Receive EMail No

2012 Feb 17 10:11:05

Appeal Docket Sheet

Docket Number. 234 WDA 2012

Page 2 of 4

February 17, 2012

Superior Court of Pennsylvania

Secure



COUNSEL INFORMATION

Appellee Williams Gas/Laurel Mountain Midstream
Pro Se No **Appoint Counsel Status** Represented
IFP Status
Attorney Condo, Kathy Kay
Bar No 034910
Law Firm Babst, Calland Clements & Zomnir, P C
Address Two Gateway Center, 8th Floor
Pittsburgh, PA 15222
Phone No (412) 394-5400 **Fax No** (412) 394-6576
Receive Mail Yes
Receive EMail No

Appellee Range Resources Corporation
Pro Se No **Appoint Counsel Status** Represented
IFP Status
Attorney Swetz, James Christopher
Bar No 208717
Law Firm K&L Gates, LLP
Address K&L Gates Llp
210 Sixth Ave
Pittsburgh, PA 15222--2613
Phone No (412) 355-8387 **Fax No**
Receive Mail Yes
Receive EMail Yes **Email Address** james.swetz@klgates.com

Appellee Pennsylvania Department of Environmental Protection
Pro Se No **Appoint Counsel Status** Represented
IFP Status
Attorney Myers Gail Alison
Bar No 048831
Law Firm PA Department of Environmental Protection
Address Dep Ofc of Chief Counsel
400 Waterfront Dr
Pittsburgh, PA 15222--4745
Phone No (412) 442-4262 **Fax No**
Receive Mail Yes
Receive EMail No

Appellee Markwest Energy Group, LLC
Pro Se No **Appoint Counsel Status** Represented
IFP Status
Attorney McDowell, Erin Windle
Bar No 093684
Law Firm Eckert Seamans Cherin & Mellott, LLC
Address 600 Grant St 44th Fl
Pittsburgh, PA 15219
Phone No (412) 566-6070 **Fax No** (412) 566-6099
Receive Mail No
Receive EMail No

Appeal Docket Sheet

Superior Court of Pennsylvania

Docket Number: 234 WDA 2012

Page 3 of 4

February 17, 2012

Secure



COUNSEL INFORMATION

Appellee Mark West Energy Partners, L P

Pro Se No Appoint Counsel Status Represented

IFP Status

Attorney McDowell, Erin Windle
 Bar No 093684
 Law Firm Eckert Seamans Cherin & Mellott, LLC
 Address 600 Grant St 44th Fl
 Pittsburgh, PA 15219
 Phone No (412) 566-6070 Fax No (412) 566-6099
 Receive Mail Yes
 Receive EMail Yes EMail Address emcdowell@eckertseamans.com

Appellee Hallowich, Stephanie

Pro Se No Appoint Counsel Status Represented

IFP Status

Attorney Villari, Peter M
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 Law Firm Villari, Brandes & Kline, P C
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 Conshohocken, PA 19428
 Phone No (610) 729-2900 Fax No (610) 729-2910
 Receive Mail Yes
 Receive EMail No

Appellee Hallowich, Chris

Pro Se No Appoint Counsel Status Represented

IFP Status

Attorney Villari, Peter M
 Bar No 026875
 Law Firm Villari, Brandes & Kline, P C
 Address 161 Washington St Ste 400
 Conshohocken, PA 19428
 Phone No (610) 729-2900 Fax No (610) 729-2910
 Receive Mail No
 Receive EMail No

Participant Post-Gazette

Pro Se No Appoint Counsel Status Represented

IFP Status

Attorney Frank, Frederick N
 Bar No 010395
 Law Firm Frank, Gale, Bails, Murcko & Pocrass P C
 Address 707 Grant Street
 Gulf Tower, Suite 3300
 Pittsburgh, PA 15219
 Phone No (412) 471-5912 Fax No (412) 471-7351
 Receive Mail Yes
 Receive EMail No

Appeal Docket Sheet**Superior Court of Pennsylvania****Docket Number. 234 WDA 2012****Page 4 of 4****February 17, 2012****Secure****FEE INFORMATION**

Fee Dt	Fee Name	Fee Amt	Receipt Dt	Receipt No	Receipt Amt
02/15/2012	Notice of Appeal	73 50	02/15/2012	2012-SPR-W-000151	73 50

AGENCY/TRIAL COURT INFORMATION

Court Below	Washington County Court of Common Pleas		
County	Washington	Division	Washington County Civil Division
Order Appealed From	January 31, 2012	Judicial District	27
Documents Received	February 15, 2012	Notice of Appeal Filed	February 9, 2012
Order Type	Order Entered		
OTN(s)			
Lower Ct Docket No(s)	C-63-CV-201003954		
Lower Ct Judge(s)	Pozonsky, Paul M Judge		

ORIGINAL RECORD CONTENT

Original Record Item	Filed Date	Content Description

Date of Remand of Record**BRIEFING SCHEDULE**

None

None

DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
February 15, 2012	Notice of Appeal Docketed	Appellant	Observer Publishing Company d/b/a Observer-Reporter
February 17, 2012	Docketing Statement Exited (Civil)		Valecko, Eleanor R

Appeal Docket Sheet

Docket Number: 235 WDA 2012

Page 1 of 4

February 17, 2012

Superior Court of Pennsylvania

Secure



CAPTION

Stephanie Hallowich and Chris Hallowich, H/W

v

Range Resources Corporation, William Gas/Laurel Mountain Midstream, Markwest Energy Partners, L P Markwest Energy Group, L L C and Pennsylvania Department of Environmental Protection
 Appeal of PG Publishing Company, Proposed Intervenor

CASE INFORMATION

Initiating Document Notice of Appeal

Case Status Active

Case Processing Status February 15, 2012 Awaiting Original Record

Journal Number

Case Category Civil Case Type(s) Trespass

CONSOLIDATED CASES

RELATED CASES

Docket No / Reason	Type
234 WDA 2012	Related
Same Issue(s)	

SCHEDULED EVENT

Next Event Type Receive Docketing Statement

Next Event Due Date March 2, 2012

Next Event Type Original Record Received

Next Event Due Date April 9, 2012

COUNSEL INFORMATION

Appellant PG Publishing Company

Pro Se No Appoint Counsel Status Represented

IFP Status No

Attorney Frank, Frederick N

Bar No 010395

Law Firm Frank, Gale, Bails, Murcko & Pocrass P C

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 Pittsburgh, PA 15219

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Receive Mail Yes

Receive EMail No

2012 FEB 21 AM 11:11

Appeal Docket Sheet

Docket Number: 235 WDA 2012

Page 2 of 4

February 17, 2012

Superior Court of Pennsylvania

Secure



COUNSEL INFORMATION

Appellee Williams Gas/Laurel Mountain Midstream
Pro Se No **Appoint Counsel Status** Represented
IFP Status
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Bar No 034910
Law Firm Babst, Calland, Clements & Zomnir, P C
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Receive EMail No

Appellee Range Resources Corporation
Pro Se No **Appoint Counsel Status** Represented
IFP Status
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Bar No 208717
Law Firm K&L Gates, LLP
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Pittsburgh, PA 15222--2613
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Receive EMail No

Appellee Pennsylvania Department of Environmental Protection and Twp of Pittston
Pro Se No **Appoint Counsel Status** Represented
IFP Status
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Law Firm PA Department of Environmental Protection
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Receive EMail No

Appellee Markwest Energy Group, LLC
Pro Se No **Appoint Counsel Status** Represented
IFP Status
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Law Firm Eckert Seamans Cherin & Mellott, LLC
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Pittsburgh, PA 15219
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Receive Mail Yes
Receive EMail No

Appeal Docket Sheet

Superior Court of Pennsylvania

Docket Number: 235 WDA 2012**Page 3 of 4****February 17, 2012****Secure****COUNSEL INFORMATION****Appellee Mark West Energy Partners, L.P.**

Pro Se No Appoint Counsel Status Represented

IFP Status

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Appellee Hallowich, Stephanie

Pro Se No Appoint Counsel Status Represented

IFP Status

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 Receive EMail No

Appellee Hallowich, Chris

Pro Se No Appoint Counsel Status Represented

IFP Status

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 Law Firm Villari, Brandes & Kline, P C
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 Conshohocken, PA 19428
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 Receive Mail No
 Receive EMail No

FEE INFORMATION

Fee Dt	Fee Name	Fee Amt	Receipt Dt	Receipt No	Receipt Amt
02/15/2012	Notice of Appeal	73 50	02/15/2012	2012-SPR-W-000152	73 50

AGENCY/TRIAL COURT INFORMATION

Court Below	Washington County Court of Common Pleas	Division	Washington County Civil Division
County	Washington	Judicial District	27
Order Appealed From	January 31, 2012	Notice of Appeal Filed	February 9, 2012
Documents Received	February 15, 2012		
Order Type	Order Entered		
OTN(s)			
Lower Ct Docket No(s)	C-63-CV-201003954		

Appeal Docket Sheet

Docket Number 235 WDA 2012

Page 4 of 4

February 17, 2012

Lower Ct Judge(s) Pozonsky, Paul M
Judge

Superior Court of Pennsylvania

Secure



ORIGINAL RECORD CONTENT

Original Record Item	Filed Date	Content Description
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Date of Remand of Record

BRIEFING SCHEDULE

None

None

DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
February 15, 2012	Notice of Appeal Docketed	Appellant	PG Publishing Company
February 17, 2012	Docketing Statement Exited (Civil)		Valecko, Eleanor R

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

CIVIL DIVISION

STEPHANIE HALLOWICH and
CHRIS HALLOWICH,

Plaintiffs

vs.

NO. 2010 - 3954

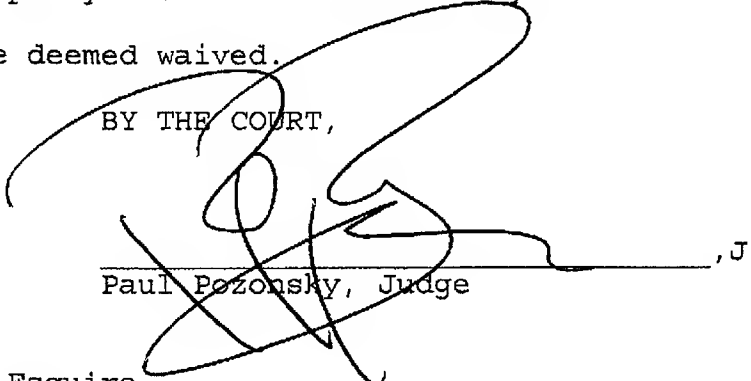
RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P., and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

Defendants

ORDER OF COURT

AND NOW, this 21ST day of February, 2012, the
Court has received Notice of Appeal in the above-captioned
proceedings. In accordance with Pa.R.A.P. No. 1925(b), Appellants
Observer Publishing Company and PG Publishing Company are each
hereby directed to file of record in the Trial Court and to serve
upon the Judge a Concise Statement of the Matters Complained Of On
Appeal no later than twenty-one (21) days after the entry of this
Order. Any issue not properly included in the timely filed and
served Statement shall be deemed waived.

BY THE COURT,


Paul Pozonsky, Judge

cc. Frederick N Frank, Esquire
Gail A. Myers, Esquire
Erin Windle McDowell, Esquire
Pete Villari, Esquire
Kathy K. Condo-Caritis, Esquire
James C. Swetz, Esquire

ENTRY OF OPINION, ORDER, DECREE,
ADJUDICATION OR JUDGMENT FILED 2-27-12

MAILED 2-28-12

TO _____

F Frank

G Myers

E Winkle

P Villan.

K Condo-Caritas

J Swetz

WASHINGTON COUNTY COURT ADMINISTRATOR'S OFFICE

WASHINGTON COUNTY COURTHOUSE

ONE SOUTH MAIN STREET

SUITE 2004

WASHINGTON, PA 15301

(724)228-6797

TRANSCRIPT REQUEST FORM:

Pursuant to Pa Rule of Judicial Administration 5000.5, the following transcript is requested

Date of Request 2/23/12 ^(Req. for Transcript) Filed 2/29/12 Date of Hearing 1/31/12

Case Name Hallowich v. Range Resources, et al.

Case No C-63-CV-201003954 Courtroom No 5

Presiding Judge The Honorable Paul Pozansky

Type of Proceeding Civil Action - Hearing

Requested by Ellis W. Kunka, Esquire

Frank, Gals, Bauls, Moretto & Porcass, P.C.

(Please provide contact information)

707 Grant St., Pittsburgh, PA 15219 Phone (412) 471-5937 Fax: (412) 471-7351
Suite 3300

Attorneys for the Pittsburgh Post-Gazette

ORDER OF COURT

AND NOW, this 28TH day of Feb 2012, after presentation and consideration of the request for transcription, it is hereby ORDERED, ADJUDGED AND DECREED that the Court Administrator shall order transcription pursuant to the provisions of Pa. RJA 5000.5 and 5000.6

BY THE COURT

Judge

Kunka, Ellis
Curran, M. A. Ct Rep jl

ENTRY OF OPINION, ORDER, DECREE
ADJUDICATION OR JUDGMENT FILED 2-29-12
MAILED 3-2-12
TO _____

4208
2✓

IN THE
COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W

No C-63-CV-201003954

Plaintiffs,

vs

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L L C , AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendants

**PG PUBLISHING COMPANY'S
CONCISE STATEMENT OF MATTERS
COMPLAINED OF ON APPEAL
PURSUANT TO Pa.R.A.P. 1925(b)**

Filed on behalf of Proposed Intervenor
PG Publishing Company d b a
The Pittsburgh Post-Gazette

Counsel of Record for this Party

Frederick N Frank, Esquire
Pa I D #10395

Ellis W Kunka, Esquire
Pa I D #311929

FRANK, GALE, BAILS, MURCKO
& POCRASS, P C.
Firm I D No 892
33rd Floor, Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
(412) 471-5912

2012-11-15 11:30

[Handwritten signature]

IN THE
COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W,

Plaintiffs,

vs

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L L C , AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendants

No C-63-CV-201003954

**PG PUBLISHING COMPANY'S CONCISE STATEMENT OF MATTERS
COMPLAINED OF ON APPEAL PURSUANT TO Pa.R.A.P. 1925(b)**

AND NOW, comes the Proposed Intervenor, PG Publishing Company d b a The Post-Gazette, by and through their undersigned counsel, Frederick N Frank, Esquire, Ellis W Kunka, Esquire, and Frank, Gale, Bails, Murcko & Pocrass, P C and in accordance with the Order of Court dated February 21, 2012, and pursuant to Pa.R A P 1925(b), hereby states the following matters complained of in the appeal filed from this Court's January 31, 2012 Order.

1 The trial court abused its discretion and misapplied the law in denying the Proposed Intervenor, PG Publishing Company d/b/a The Post-Gazette ("The Post-Gazette"), the right to intervene in the civil proceeding in the above-captioned matter as follows

a The trial court erred in finding that The Post-Gazette's petition to intervene and motion to unseal the record ("Petition") was not filed during the pendency of an action. A request by the media to intervene and open a judicial

record can come any time after the record is sealed, even if the underlying proceeding has come to an end by adjudication or settlement.

b In the alternative, at the time of denial of the Petition, the underlying action had not come to an end. The plaintiffs in the underlying action, Stephanie Hallowich and Chris Hallowich, on behalf of themselves and their minor children, had brought an emergency petition for limited unsealing of the record and for a ruling on the parties' settlement agreement and release ("Hallowich Emergency Petition"). Thus the underlying action was pending at the time of the trial court's ruling on The Post-Gazette's Petition because the trial court had before it for adjudication the Hallowich Emergency Petition.

2 The trial court erred in denying The Post-Gazette's request for a hearing on The Post-Gazette's Petition before the denial of the Petition. When a request is made to open a judicial record by the media, the trial court cannot merely rely on its decision to close the proceeding or seal the record prior to the media's request. Rather, it must afford the media a hearing on its request, and then articulate its reasoning for opening or closing the proceeding in view of the media's presumptive Constitutional and common law right of access.

3 The trial court erred by failing to hold that the settlement agreement submitted to the trial court for approval under Pa R C P 2039 and Washington County Court of Common Pleas Local Rule 2039.1 was a judicial record subject to public access.

4 The trial court erred by failing to hold that the parties requesting closure of the proceedings, being defendants Range Resources Corporation, Williams Gas/Laurel Mountain Midstream, Markwest Energy Group, L P , and Markwest Energy Group, L L C ("Defendants"), failed to present sufficient evidence to rebut the Constitutional presumption of openness of the

proceedings by establishing that closure serves an important governmental interest and that there is no less restrictive way to serve that important governmental interest

5 The trial court erred by failing to hold that the Defendants failed to present sufficient evidence to rebut the common law presumption of openness present in the proceedings by establishing that their interest in secrecy outweighs the presumption of openness

Respectfully Submitted,

FRANK, GALE, BAILS, MURCKO &
POCRASS, P C

Date

March 6, 2012

By



Frederick N Frank, Esquire

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W,

Plaintiffs,

vs

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L L C . AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendants

No C-63-CV-201003954

PROOF OF SERVICE

I, Frederick N Frank, Esquire, hereby certify that a true and correct copy of PG Publishing Company's Concise Statement of Matters Complained of Upon Appeal Pursuant to Pa R A P 1925(b) was served upon the following this 6th day of March, 2012, via the manner indicated below, which satisfies the requirements of Pa R A P. 1925(b) and Pa R A P

121

The Honorable Paul Pozonsky, Judge
Washington County Court of Common Pleas, Civil Division
Washington County Courthouse 1 South Main Street
Suite 1004
Washington, PA 15301
(via hand delivery)

Gail A Myers, Esquire
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Pittsburgh, PA 15222
(Counsel for Pennsylvania Department of
Environmental Protection)
(via facsimile)

Erin Windle McDowell, Esquire
44th Floor, 600 Grant Street
Pittsburgh, PA 15219
(Counsel for MarkWest Energy Partners
L P & MarkWest Energy Group, L L C)
(via facsimile)

Kathy K Condo-Caritis, Esquire
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222
(Counsel for Williams Gas/Laurel Mountain
Midstream)
(via facsimile)

James C Swetz, Esquire
K & L Gates, L L P
K & L Gates Center
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Pittsburgh, PA 15222
(Counsel for Range Resources Corporation)
(via facsimile)

Peter Villari, Esquire
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428
(Counsel for Plaintiffs)
(via facsimile)

Colin E Fitch
Marriner, Jones & Fitch
800 Washington Trust Building
30 East Beau Street
Washington, PA 15301
(Counsel for Washington Observer)
(via facsimile)



Frederick N Frank, Esquire
Attorneys for Proposed Intervenor

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH and
CHRIS HALLOWICH, H/W,

Plaintiffs

v.

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

No 2010-3954

CONCISE STATEMENT OF MATTERS
COMPLAINED OF ON APPEAL
PURSUANT TO Pa R A P 1925(b)

Filed on behalf of Observer Publishing
Company d/b/a Observer-Reporter

Counsel of Record for this Party
MARRINER, JONES & FITCH
800 Washington Trust Building
30 East Beau Street
Washington, PA 15301
(724) 225-6600

Colin E Fitch, Esquire
PA ID #56710

8/11/11 1:18

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH and
CHRIS HALLOWICH, H/W,

Plaintiff

v

No 2010-3954

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, LLC and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

**CONCISE STATEMENT OF MATTERS COMPLAINED
OF ON APPEAL PURSUANT TO Pa. R.A.P. 1925(b)**

AND NOW, comes the Observer Publishing Company d/b/a Observer-Reporter, by its attorneys, Marriner, Jones & Fitch, and in accordance with the Order of Court dated February 21, 2012, and pursuant to Pa. R.A.P. 1925(b), hereby states the following matters complained of in the appeal filed from this Court's January 31, 2012 Order:

1 The trial court abused its discretion and misapplied the law in denying the Proposed Intervenor, Observer Publishing Company d/b/a Observer-Reporter ("Observer"), the right to intervene in the civil proceeding in the above-captioned matter for the following reasons:

a The trial court erred in finding that Observer's Petition to Intervene and Motion to Unseal the Record ("Petition") was not filed during the pendency of an action. A request by the media to intervene and open a

judicial record can come any time after the record is sealed, even if the underlying proceeding has come to an end by adjudication or settlement

- b In addition, at the time of denial of the Petition, the underlying action had not come to an end as the Plaintiffs in the underlying action, Stephanie Hallowich and Chris Hallowich, on behalf of themselves and their minor children, had brought an Emergency Petition for limited unsealing of the record and for a ruling on the parties' Settlement Agreement and Release ("Hallowich Emergency Petition"). Thus, the underlying action was pending at the time of the trial court's ruling on Observer's Petition because the trial court had before it for adjudication the Hallowich Emergency Petition

2 The trial court erred in denying the Observer's request for a hearing on Observer's Petition before the denial of the Petition. When a request is made to open a judicial record by the media, the trial court cannot merely rely on its decision to close the proceeding or seal the record prior to the media's request. Rather, it must afford the media a hearing on its request, and then articulate its reasoning for opening or closing the proceeding in consideration of the media's presumptive constitutional and common law right of access.

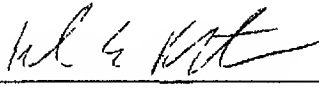
3 The trial court erred by failing to hold that the Settlement Agreement submitted to the trial court for approval under Pa. R.C.P. 2039 and Washington County Court of Common Pleas Local Rule 2039.1 was a judicial record subject to public access.

4. The trial court erred by failing to hold that the parties requesting closure of the proceedings, being Defendants Range Resources Corporation, William Gas/Laurel Mountain Midstream, MarkWest Energy Group, L.P., and MarkWest Energy Group, L.L.C.

("Defendants"), failed to present sufficient evidence to rebut the constitutional presumption of openness of the proceedings by establishing that closure serves an important governmental interest and that there is no less restrictive way to serve that important governmental interest

5. The trial court erred by failing to hold that the Defendants failed to present sufficient evidence to rebut the common law presumption of openness present in the proceedings by establishing that their interest in secrecy outweighs the presumption of openness

MARRINER, JONES & FITCH

BY 
Colin E Fitch

Clients \1496 282\Concise Stmt of Matters Complained of.doc

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within **CONCISE STATEMENT OF MATTERS COMPLAINED OF** was served upon the following by first-class United States mail on the 7th day of March, 2012

Honorable Paul Pozonsky
Washington County Courthouse
1 South Main Street – Suite 1004
Washington, PA 15301

Attorney for Wms Gas/Laurel Mountain
Kathy K. Condo-Cartis, Esquire
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Pittsburgh, PA 15222

Attorney for Post-Gazette
Frederick N. Frank, Esquire
Frank, Gale, Bails, Murcko & Pocrass, P C
707 Grant Street, Suite 3300
Pittsburgh, PA 15219

Attorney for Range Resources
James C Swetz, Esquire
K&L Gates, LLP
210 Sixth Avenue
Pittsburgh, PA 15222

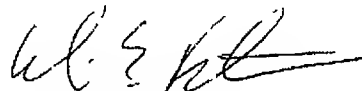
Attorney for PA DEP
Gail A. Myers, Esquire
400 Waterfront Drive
Pittsburgh, PA 15222

Attorney for Hallowich
Peter Villari, Esquire
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428

Attorney for Markwest Energy
Erin Windle McDowell, Esquire
600 Grant Street – 44th Floor
Pittsburgh, PA 15219

MARRINER, JONES & FITCH

BY



Colin E. Fitch

IN THE
COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W

No C-63-CV-201003954

Plaintiffs,

AFFIDAVIT OF SERVICE

vs

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P., MARKWEST ENERGY
GROUP, L L C , AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendants

Filed on behalf of Proposed Intervenor
PG Publishing Company d/b/a
The Pittsburgh Post-Gazette

Counsel of Record for this Party.

Frederick N Frank, Esquire
Pa I D #10395

Ellis W. Kunka, Esquire
Pa I D #311929

FRANK, GALE, BAILS, MURCKO
& POCRASS, P C
Firm I D No 892
33rd Floor, Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
(412) 471-5912

2011 11 17 07

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W,

Plaintiffs,

vs

No C-63-CV-201003954

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L L C , AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendants

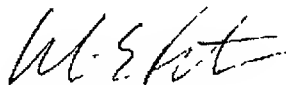
AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF WASHINGTON

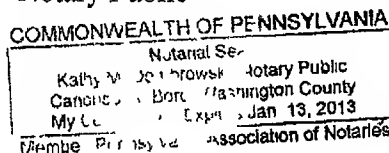
SS:

I hereby certify that I served, by hand delivery, a true and correct copy of PG Publishing Company's Concise Statement of Matters Complained of Upon Appeal Pursuant to Pa R A P 1925(b) upon the assigned judge in the above-captioned action, the Honorable Paul Pozonsky, and filed the original with the Washington County Court of Common Pleas Prothonotary, on the 6th day of March, 2012


Colin E. Fitch, Esquire

Sworn to before me and subscribed in my presence this 13th day of March, 2012


Notary Public



IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH

Plaintiff,

vs.

No 2010-3954

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARK WEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L L.C., AND PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

Paul Pozonsky, J.

April 2nd, 2012

**OPINION PURSUANT TO PENNSYLVANIA RULE OF APPELLATE
PROCEDURE 1925 (a)**

Factual and Procedural History

This appeal stems from a lawsuit filed on May 27, 2010, by Plaintiffs, Stephanie and Chris Hallowich, against Defendants, Range Resources, Williams Gas/Laurel Mountain Midstream, MarkWest Energy Partners, MarkWest Energy Group, and the Pennsylvania Department of Environmental Protection. The lawsuit concerns fracking in and around Plaintiffs' property by Defendants, and Plaintiffs were vocal critics of the fracking process during the pendency of this litigation.¹

¹ See *Shale Gas Drilling: A Changed Environment*, National Geographic, October 22, 2010 (available at <http://news.nationalgeographic.com/news/2010/10/photogalleries/101022-energy-shale-gas-drilling-pictures>) See also "Stephanie Hallowich discusses water issues due to hydraulic fracturing," YouTube, December 2, 2010 (available at <http://www.youtube.com/watch?v=TWADkaHpDE8>)

Plaintiffs and Defendants reached a settlement agreement on May 27, 2011. The settlement bound not only Plaintiffs Stephanie and Christopher Hallowich, but their minor children Nathan, age 9, and Allison, age 5 as well. Because minor children were involved, Plaintiffs filed a Petition for Approval of Settlement of Minors' Actions in accordance with Pa. R.C.P. 2039 and Washington County Local Rule of Court 2039.1. (Defendant's Joint Brief in Opposition to PG Publishing Company's and the Observer Publishing Company's Petition to Intervene and Motion to Unseal the Record, p. 2) (hereafter "Defendant's Brief, 9/19/11"). "The settlement agreement contains express confidentiality provisions, collaboratively drafted and consented to by both parties, which are designed to protect Plaintiffs' and Defendants' interest in preventing public disclosure of the terms of their private agreement to resolve this case " *Id.*

Plaintiffs filed an Orphans' Court Petition on July 28, 2011, and this Court scheduled the case for a settlement conference. The settlement conference was rescheduled at the request of the parties to August 23, 2011. An in chambers² settlement conference was then conducted with Plaintiffs, their two minor children Nathan and Allison, Plaintiffs' counsel, and Defendants' counsel.³

At the conclusion of the settlement conference, all parties filed a joint Motion to Seal, which this court signed and filed that same day at the specific request of all parties. Seven weeks later, on August 31, 2011, Appellant Pittsburgh Post-Gazette filed a Petition to Intervene and Unseal the Record. Observer Publishing, doing business as the Observer Reporter, filed a Petition to Intervene and Joinder in PG Publishing Company's Motion to Unseal Record two weeks later on September 13, 2011.

² Two reporters identified themselves as being from the Pittsburgh Post-Gazette and requested to join the in chambers settlement conference, that request was denied by the Court.

³ The Pennsylvania Department of Environmental Protection was not present at the settlement conference, and has not taken part in this litigation in any way.

This Court held oral argument on PG Publishing and Observer Publishing's ("Appellants") Petition to Intervene and Unseal the Record on October 4, 2011. At oral argument, this Court, *sua sponte*, raised the issue of Appellants' timely intervention. This Court ordered all parties to brief the issue of Appellants' right to intervene by November 7, 2011. In addition to a brief on that issue, Appellants' filed a Joint Petition for a Hearing on November 7, 2011.

While this Court reviewed Appellants' petitions, attorneys for Plaintiffs Stephanie and Chris Hallowich filed an Emergency Petition for Limited Unsealing of the record and For a Ruling on the Parties' Settlement Agreement and Release on November 14, 2011.⁴ This Court informed Plaintiffs' counsel that pursuant to Washington County's local rules, the 'Emergency' Petition and accompanying proposed order had to be presented in motions court with proper notice given to all parties. The parties, thereafter, appeared on December 20, 2011 and agreed to an edited Rule to Show Cause against Defendants to submit "a written response and briefs on or before January 24, 2012, as to why the record in this case should not be unsealed...." This Court scheduled a hearing on the Rule to Show Cause for January 31, 2012.

On January 31, 2012, this Court denied both Appellants' Petition for a Hearing, as well as the Petition to Intervene and Motion to Unseal the Record. The next day, this Court denied the 'Emergency' Petition for Limited Unsealing of the Record and for a Ruling on the Parties' Settlement Agreement, because of Plaintiffs' failure to comply with Pennsylvania Rule of Civil Procedure 206 3.⁵

⁴ That pleading did not include any signed verification by either named Plaintiff, or their counsel of record

⁵ At the hearing on January 31, 2011, this Court pointed out to Plaintiffs that their 'Emergency' Petition was not verified. No verification had been attached in the two and a half months since it was originally filed, or in the week since Defendant Range Resources filed a brief raising the verification issue. However,

Both Observer Publishing Company and PG Publishing Company filed a timely Notice of Appeal of this Court's January 31, 2012 Order. This Court ordered each Appellant to file a Concise Statement of Matters Complained of on Appeal (hereafter "Concise Statement"), and each have filed a timely Concise Statement.

Discussion

Appellants' submitted identical Concise Statements raising the same issues.

Appellants' submit that this Court allegedly erred in.

- 1) finding that the Petition to Intervene was not filed during the pendency of an action,
- 2) denying the Petition for a hearing;
- 3) failing to hold that the settlement agreement submitted to the trial court for approval under Pa.R.C.P. 2039 and Washington County Court of Common Pleas Local Rule 2039.1 was a judicial record subject to public access,
- 4) failing to hold that the parties requesting closure failed to present sufficient evidence to rebut the Constitutional presumption of openness of the proceedings by establishing that closure serves an important governmental interest and that there is no less restrictive way to serve that important governmental interest, and
- 5) failing to hold that the Defendants failed to present sufficient evidence to rebut the common law presumption of openness present in the proceedings by establishing that their interest in secrecy outweighs the presumption of openness

This Court will first address the third, fourth, and fifth issues raised in the identical Concise Statements, as they are not procedurally appropriate. This Court will then address the substantive issues Appellants' raise.

Procedurally Improper Issues

The third, fourth, and fifth issues raised in Appellants' Concise Statement are not procedurally proper for resolution by the Superior Court at this time. This Court did not reach the merits of Appellants' Petition to Intervene and Unseal the Record. Instead, this

thirty minutes after the hearing, Plaintiffs' counsel faxed a signed verification from both named Plaintiffs to this Court's chambers as well as the Washington County Prothonotary. This Court did not consider the untimely addendum to Plaintiffs' 'Emergency' Petition.

Court denied intervention because the petition was not filed during the “pendency of an action” as required by Pennsylvania Rule of Civil Procedure 2327 (see discussion *infra*). Thus, it would be improper for the Superior Court to address the merits of unsealing the record. ***See De Fazio v. Labe***, 543 A 2d 540, 546 (Pa. 1988) (refusing to address the underlying merits where a trial court ruled solely on the procedural issues).

This Court did not address the merits of unsealing the record in its Order dated January 31, 2012. Such a finding would have been improper. Before reaching the merits, this Court had to determine if Appellants could properly intervene in the case.

Timeliness of the Petition to Intervene

Although Appellants did not file their Petition to Intervene in accordance with Pa. R C P 2327, they allege in their Concise Statement that this Court erred by not allowing either Appellant to intervene in the underlying case. Pennsylvania Rule of Civil Procedure 2327 states

At any time during the pendency of an action, a person not a party thereto shall be permitted to intervene therein, subject to these rules if

- (1) the entry of a judgment in such action or the satisfaction of such judgment will impose any liability upon such person to indemnify in whole or in part the party against whom judgment may be entered; or
- (2) such person is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof; or
- (3) such person could have joined as an original party in the action or could have been joined therein, or
- (4) the determination of such action may affect any legally enforceable interest of such person whether or not such person may be bound by a judgment in the action.

Thus, a party may only intervene in an action while it is pending. This Commonwealth’s jurisprudence on that issue is clear:

To petition the court to intervene after a matter has been finally resolved is not allowed by our Rules of Civil Procedure. It is only during the pendency of

an action that the court may allow intervention. Pa R.C P 2327. An action is "pending", according to Black's Law Dictionary (5th Ed.), when it is.

begun, but not yet completed; during; before the conclusion of; prior to the completion of; unsettled; undetermined; in process of settlement or adjustment. Thus, an action or suit is "pending" from its inception until the rendition of final judgment.

As our Commonwealth Court recognized in **Santangelo Hauling, Inc. v. Montgomery County**, 479 A.2d 88 (1984), where a court no longer has power to permit intervention because a matter has been finally adjudicated, a hearing on a petition to intervene would be pointless.

In re Estate of Albright, 545 A.2d 896, 899 (Pa. Super. 1988), appeal denied, 522 Pa. 571, 559 A.2d 33 (Pa 1989) **See also In re T.T.**, 842 A.2d 962 (Pa Super. 2004), and **Wecht v. Roddey**, 815 A.2d 1146 (Pa. Commw Ct. 2004). Appellant PG Publishing filed its Petition to Intervene and Motion to Unseal the Record on August 31, 2011, seven weeks after the case was settled Appellant Observer Publishing did not file their Petition to Intervene until September 13, 2011.

Appellants rely, in part, on **Commonwealth v. Frattarola**, 485 A 2d 1147 (Pa Super. 1984) as controlling; however a close reading of **Frattarola** will show it is not controlling and is clearly distinguishable. In **Frattarola** the media intervened in the case while it was still pending Before the Court addressed the merits of the pending motion to unseal the record, the underlying criminal charges were dismissed The Superior Court held that the issue was not moot, based on those specific facts

Appellants confuse the issue of mootness with whether their Petition to Intervene was untimely under the Pennsylvania Rules of Civil Procedure. In **Frattarola**, the petition to intervene was indeed timely, as it occurred during the "pendency of an action " The issue of mootness only arose because the underlying criminal charges were dismissed. That is clearly not the case herein, and thus **Frattarola** is not dispositive.

Appellants also rely on *Pansy v. Borough of Stroudsburg*, 23 F.3d 772 (3rd Cir. 1994), which is also distinguishable. That case dealt with a federal lawsuit and a newspaper's attempt to intervene. The Third Circuit held that the intervention was not untimely, although the newspapers did not petition to intervene until six months after the case was settled.

The reasoning and arguments in *Pansy* may be persuasive, but ultimately the case is neither on point nor controlling on this Court. Appellants fail to mention in their Joint Brief in Support of PG Publishing Company's and Observer Publishing Company's Right to Intervene (hereafter "Joint Brief in Support") that the Federal court in *Pansy* was not constrained by a rule similar to Pa. R.C.P. 2327. Thus the Third Circuit did not determine in *Pansy* that the media had the absolute right to file an untimely petition to intervene where such a practice is specifically barred by the applicable rules of civil procedure.

Appellant PG Publishing Company argues in its Joint Brief that a "timely objection" was made during the pendency of an action.⁶ During the in chambers settlement conference, two reporters from the Post-Gazette came into this Court's outer office. They were informed by staff that they were not parties to the settlement conference and therefore would not be admitted to chambers. The reporters "objected," which the Post Gazette argues constituted a "timely objection," thereby permitting intervention during the pendency of a civil action.

Appellant PG Publishing did not cite a single case in its Joint Brief holding that an oral objection by a reporter, to a court proceeding being held in chambers, constitutes intervention for purposes of Pa.R.C.P. 2327. Instead, Appellant relies on *Commonwealth*

⁶ Although this was a Joint Brief between Appellants, it is clear that Appellant Observer Publishing cannot raise this argument, as no reporter from their company was present on the date in question.

v. Buehl, 462 A 2d 1316 (Pa. Super. 1983), a case dealing with the media's right to pretrial proceedings in criminal cases. That case exclusively discusses the media's right to intervene and be heard in criminal proceedings. This is a civil case, involving minor children, and therefore the holding in *Buehl* does not apply.

Finally, Appellants contend that because Plaintiffs filed an Emergency Petition for Limited Unsealing of the Record and for a Ruling on the Parties' Settlement Agreement and Release (hereafter "the Emergency Petition"), the case was still pending and thus their Petition to Intervene and Motion to Unseal the Record was timely. That argument cannot stand. Plaintiffs filed the Emergency Petition November 14, 2011. By that time, Appellants had already submitted their Petition and all supplemental briefs. Plaintiffs Emergency Petition was not pending when Appellants' Petition was filed, and was irrelevant to determining whether Appellants' Petition was filed during the pendency of an action.⁷

Request for a Hearing

In addition to denying Appellants' Petition to Intervene as untimely, this Court denied Appellants' request for an evidentiary hearing on the issue. No hearing was necessary in this case, as the issue before this court was whether the Petition to Intervene was filed during the pendency of an action. Since this is a purely legal question no factual hearing was necessary and therefore this Court properly denied the request.

Conclusion

This Court, adhering to the Pennsylvania Rules of Civil Procedure and this Commonwealth's jurisprudence on the matter, properly denied Appellants' Petition to Intervene and Motion to Unseal the Record. "A motion to intervene after entry of a decree

⁷ Although Plaintiffs' Emergency Petition is labeled as an emergency, Plaintiffs took no steps to expedite a hearing on the matter, or to properly attach a verification statement by either named Plaintiff prior to the 'Emergency' hearing

should be denied except in extraordinary circumstances " ***Jackson v. Hendrick***, 446 A 2d 226 (Pa. 1982). No extraordinary circumstances are present in this case, nor was an evidentiary hearing necessary for a determination of the legal issue presented. This Court respectfully requests that the Superior Court affirm its Order dated January 31, 2012

BY THE COURT

Paul Pozonsky, Judge

OF OPINION, ORDER, DECREE
1. INDICATION OR JUDGMENT FILED 4-2-12

MAILED 4-2-12

TO _____

J Swetz

K Condo-Curts

C Myers

E M. D. [REDACTED]

R Wilkey

F Frank

C Fitch

4099
10✓

1

CERTIFICATE AND TRANSMITTAL OF RECORD
UNDER
PENNSYLVANIA RULE OF APPELLATE PROCEDURE (1931) (c)

To the Prothonotary of the Appellate Court to which
the within matter has been appealed

THE UNDERSIGNED, Clerk (or Prothonotary) of the Court of Common Pleas of Washington County, the said Court being a Court of record, does hereby certify that annexed hereto is a true and correct copy of the whole and entire record, including and opinion of the Court as required by Pa R A P 1925, the original papers and exhibits, if any, on file, the transcript of the proceedings, if any, and the docket entries in the following manner
(caption of Case and Appellate Court No)

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W

NO. 2010-3954

Plaintiff,

234 WDA 2012
235 WDA 2012

vs.

RANGE RESOURCES CORPORATION, WILLIAMS
GAS/LAUREL MOUNTAIN MIDSTREAM, MARKWEST
ENERGY PARTNERS, L.P., MARKWEST ENERGY
GROUP, L.L.C., AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL PROTECTION,

Defendants.

in compliance with Pa R A P (1931) (c)

The documents comprising the record have been numbered from
No 1 to No 56 and attached hereto as Exhibit A is a list of the
documents correspondingly numbered and identified with reasonable
definiteness

The date on which the record has been transmitted to the Appellate Court
is 4-4-12

SUPERIOR COURT OF PA.

CERT MAIL #7010 2780 0003 7092 1775

Phyllis Ranko Matheny (ss)
Prothonotary

PHYLLIS RANKO MATHENY, PROTHONOTARY
My term Expires First Monday in January, 2016

Washington County
MEMORANDUM

FROM: PROTHONOTARY'S OFFICE

TO: FREDERICK N. FRANK, ESQ.
33rd FLOOR, GULF TOWER
707 GRANT STREET
PITTSBURGH, PA. 15219

JAMES C. SWETZ, ESQ.
K&L GATES CENTER
210 SIXTH AVENUE
PITTSBURGH, PA. 15222

KATHY K. CONDO-CARITIS, ESQ.
TWO GATEWAY CENTER
8th FLOOR
PITTSBURGH, PA. 15222

ERIN WINDLE MCDOWELL, ESQ.
44th FLOOR, 600 GRANT STREET
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800 WASHINGTON TRUST BUILDING
30 EAST BEAU STREET
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400 WATERFRONT DR.
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ROBERT N. WILKEY, ESQ.
8 TOWER BRIDGE, 4th FLOOR
161 WASHINGTON STREET
CONSHOHOCKEN, PA. 19428

RICHARD W. HOSKING, ESQ.
1500 OLIVER BUILDING
PITTSBURGH, PA. 15222

SUBJECT: LIST OF RECORD DOCUMENTS

This list is in reference to Case No. 2010-3954,

HALLOWICH vs. RANGE RESOURCES that

was transmitted to SUPERIOR Court.

This is being sent to you Pursuant to Rules of Appellate Procedure
#1931(d).

2010-3954-32

Court of Common Pleas of Washington County
Commonwealth of Pennsylvania

Full Docket Print for Case #

C-63-CV-201003954

Case Title

HOLLOWICH VS RANGE

Case Type

SUMMONS-CIVIL ACTION

Status

APPEALED

Party Details

PLAINTIFF # 1

HOLLOWICH STEPHANIE

179 AVELLA ROAD

HICKORY, PA 15340

Attorney # 92443

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PLAINTIFF # 2

HALLOWICH CHRIS

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DEFENDANT # 1

RANGE RESOURCES CORPORATION

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Attorney # 32982

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Attorney # 208717

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LAUREL MOUNTAIN MIDSTREAM

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DEFENDANT # 4

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DEFENDANT # 5

MARKWEST ENERGY GROUP L L C

Court of Common Pleas of Washington County
Commonwealth of Pennsylvania

Full Docket Print for Case #

C-63-CV-201003954

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PENNSYLVANIA DEPARTMENT OF ENVIRON

400 WATERFRONT DRIVE

PITTSBURGH, PA 15222

Attorney # 48831

GAIL A MYERS

PRIVATE COUNSEL

400 WATERFRONT DR

PITTSBURGH, PA 15222

Event Summary

Court of Common Pleas of Washington County
Commonwealth of Pennsylvania

Full Docket Print for Case #

C-63-CV-201003954

① 05/27/2010 4581 4 SUMMONS-CIVIL ACTION

② 05/27/2010 4074 5 MOTION

③ 06/18/2010 4034 1 APPEARANCE OF

④ 06/21/2010 4034 1 APPEARANCE OF

⑤ 06/25/2010 4034 1 APPEARANCE OF

⑥ 07/02/2010 4034 1 APPEARANCE OF

⑦ 07/02/2010 4034 2 APPEARANCE OF

⑧ 07/19/2010 4184 1 SERVED

⑨ 08/11/2010 4299 1 RESPONSE

⑩ 08/17/2010 4359 1 ORDER TO RECUSE JUDGE

⑪ 08/20/2010 4289 1 BRIEF

TO STAY ALL RULES TO FILE COMPLAINT AND FOR LEAVE
OF COURT
TO CONDUCT PRE-COMPLAINT DISCOVERY IN THE NATURE
OF INFORMA-
TION AND DOCUMENT PRODUCTION FOR THE PURPOSE OF
DRAFTING
AND SERVING A SUFFICIENT COMPLAINT, AND MOTION TO
STAY
PROCEEDING FOR A SUFFICIENT PERIOD TO ALLOW PLTF TO
CON-
DUCT DISCOVERY BY THE PLTFS
GAIL A MYERS ASSISTANT COUNSEL FOR COMMONWEALTH
OF PENN-
SYLVANIA, DEPARTMENT OF ENVIRONMENTAL
PROTECTION
KATHY K CONDO, ESQ ATTY FOR DEFT WILLIAMS
GAS/LAUREL
MOUNTAIN MIDSTREAM (NOTICE OF APPEARANCE)
ERIN MCDOWELL ATTY FOR MARK WEST ENERGY
PARTNERS, L P AND
MARK WEST ENERGY GROUP, L L C (NOTICE OF
APPEARANCE)
JAMES C SWETZ OF THE LAW FIRM K&L GATES LLP ON
BEHALF OF
RANGE RESOURCES CORPORATION ("RANGE RESOURCES")
RICHARD W HOSKING OF THE LAW FIRM K&L GATES LLP ON
BEHALF
OF THE DEFTS RANGE RESOURCES CORPORATION ("RANGEN
RE-
SOURCES")
WRIT OF SUMMONS & MOTION FOR PRE-COMPLAINT
DISCOVERY ON
RANGE RESOURCES CORPORATION ON 6-8-2010 SERVED
MARKWEST
ENERGY PARTNERS, L P AND MARKWEST ENERGY GROUP,
L L C ON
6-14-2010 SERVED PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL
PROTECTION ON 6-10-2010 BY THE ALLEGHENY COUNTY
SHERIFF'S
OFFICE SERVED WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM ON
6-16-2010 BY THE ALLEGHENY COUNTY SHERIFF'S OFFICE
IN OPPOSITION TO PLTFS ' MOTION TO STAY ALL RULES TO
FILE
COMPLAINT AND FOR LEAVE OF COURT TO CONDUCT
PRE-COMPLAINT
DISCOVERY IN THE NATURE OF INFORMATION AND
DOCUMENT PRO-
DUCTION FOR THE PURPOSE OF DRAFTING AND SERVING A
SUFFI-
CIENT COMPLAINT, AND MOTION TO STAY PROCEEDING FOR
A
SUFFICIENT PERIOD TO ALLOW PLTF TO CONDUCT
DISCOVERY
BY MARKWEST ENERGY PARTNERS, LP AND MARKWEST
ENERGY GROUP,
LLC
THAT MOTION REASSIGNED TO PAUL POZONSKY SEE
PAPER
O'DELL SENECA, P J
IN SUPPORT OF MOTION TO STAY ALL RULES TO FILE
COMPLAINT AND

Court of Common Pleas of Washington County
Commonwealth of Pennsylvania

C-63-CV-201003954

Full Docket Print for Case #

(1) 08/20/2010 4289 1 BRIEF

(12) 08/20/2010 4300 2 CERTIFICATE

(13) 08/27/2010 4289 1 BRIEF

(14) 08/27/2010 4289 2 BRIEF

(15) 08/27/2010 4251 3 SUPPLEMENTAL

(16) 11/17/2010 4208 1 ORDER

FOR LEAVE OF COURT TO CONDUCT PRE-COMPLAINT
DISCOVERY IN
THE NATURE OF INFORMATION AND DOCUMENT
PRODUCTION FOR THE
PURPOSE OF DRAFTING AND SERVING A SUFFICIENT
COMPLAINT, AND
MOTION TO STAY PROCEEDING FOR A SUFFICIENT PERIOD
TO ALLOW
PLTFS TO CONDUCT DISCOVERY BY PLTFS
OF SERVICE OF PLTFS ' BRIEF IN SUPPORT OF MOTION TO
STAY
ALL RULES TO FILE COMPLAINT AND FOR LEAVE OF COURT
TO
CONDUCT PRE-COMPLAINT DISCOVERY IN THE NATURE OF
INFORMA-
TION AND DOCUMENT PRODUCTION FOR THE PURPOSE OF
DRAFTING
AND SERVING A SUFFICIENT COMPLAINT, AND MOTION TO
STAY
PROCEEDING FOR A SUFFICIENT PERIOD TO ALLOW PLTFS
TO
CONDUCT DISCOVERY UPON GAIL A MYERS, ESQ VIA FIRST
CLASS
MAIL ON 8-19-2010
OF DEFT RANGE RESOURCES CORPORATION IN OPPOSITION
TO
PLTFS ' MOTION FOR PRE-COMPLAINT DISCOVERY
OF DEFT WILLIAMS GAS/LAUREL MOUNTAIN MIDSTREAM IN
OPPOSI-
TION TO PLTFS ' MOTION FOR PRE-COMPLAINT DISCOVERY
RESPONSE IN OPPOSITION TO PLTFS ' MOTION TO STAY ALL
RULES
TO FILE COMPLAINT AND FOR LEAVE OF COURT TO
CONDUCT PRE-
COMPLAINT DISCOVERY IN THE NATURE OF INFORMATION
AND DOCU-
MENT PRODUCTION FOR THE PURPOSE OF DRAFTING AND
SERVING A
SUFFICIENT COMPLAINT, AND MOTION TO STAY
PROCEEDING FOR A
SUFFICIENT PERIOD TO ALLOW PLTF TO CONDUCT
DISCOVERY BY
THE DEFT MARKWEST ENERGY PARTNERS, LP AND
MARKWEST ENERGY
GROUP, LLC
THAT UPON CONSIDERATION OF THE PLTFS ' MOTION FOR
LEAVE OF
COURT TO CONDUCT PRE-COMPLAINT DISCOVERY IN THE
NATURE OF
INFORMATION AND DOCUMENT PRODUCTION TO DRAFT
AND SERVE A
SUFFICIENT COMPLAINT, AND MOTION TO STAY
PROCEEDING FOR A
SUFFICIENT PERIOD TO ALLOW PLTF TO CONDUCT
DISCOVERY, IT
IS HEREBY ORDERED THAT PLTFS ' MOTIONS ARE DENIED
SEE
PAPER PLTFS , STEPHANIE HALLOWICH AND CHRIS
HALLOWICH,
ARE HEREBY ORDERED TO FILE THEIR CIVIL COMPLAINT
PURSUANT
TO THE PENNSYLVANIA RULES OF CIVIL PROCEDURE
POZONSKY, J COPIES SENT ON 11-18-2010

Court of Common Pleas of Washington County
Commonwealth of Pennsylvania

Full Docket Print for Case #.

C-63-CV-201003954

(17) 07/11/2011 4101 1 PRAECIPE TO DISCONTINUE

(18) 07/28/2011 4130 1 PETITION

(19) 07/28/2011 4074 2 MOTION

(20) 07/28/2011 4300 3 CERTIFICATE

(21) 07/28/2011 4300 4 CERTIFICATE

(22) 08/11/2011 4385 1 MOTION AND ORDER

(23) 08/23/2011 4208 1 ORDER (copy)

(24) 08/23/2011 4208 2 ORDER

(25) 09/06/2011 4385 1 MOTION AND ORDER

AND SUIT DISMISSED WITH PREJUDICE WITH ALL PARTIES TO BEAR THEIR OWN COSTS BY PETER M. VILLARI, ATTORNEY FOR PLAINTIFFS FOR APPROVAL OF SETTLEMENT OF MINORS' ACTIONS PURSUANT TO PA R C P 2039 AND LOCAL RULE 2039.1 BY PLTFs (JOINT) TO FILE PETITION FOR APPROVAL OF MINORS' ACTIONS UNDER SEAL BY PLTFs OF SERVICE OF PLTFs' PETITION FOR APPROVAL OF SETTLEMENT OF MINORS' ACTIONS UPON GAIL A. MYERS, ESQ., KATHY K. CONDO, ESQ., ERIN WINDLE MCDOWELL, ESQ., RICHARD HOSKING, ESQ. AND JAMES C. SWETZ, ESQ. VIA FIRST CLASS MAIL ON 7-27-2011 OF SERVICE OF JOINT MOTION TO FILE PETITION FOR APPROVAL OF SETTLEMENT OF MINORS' ACTIONS UNDER SEAL UPON GAIL A. MYERS, ESQ., KATHY K. CONDO, ESQ., ERIN WINDLE MCDOWELL, ESQ., RICHARD HOSKING, ESQ. AND JAMES C. SWETZ, ESQ. VIA FIRST CLASS MAIL ON 7-27-2011 [PROPOSED] SCHEDULING) THAT UPON CONSIDERATION OF THE JOINT MOTION FOR SCHEDULING ORDER, THIS COURT HEREBY SCHEDULES A HEARING IN CLOSED COURT CHAMBERS ON (I) PLTFs' PETITION FOR APPROVAL OF SETTLEMENT OF MINORS' ACTIONS PURSUANT TO PA R C P 2039 AND LOCAL RULE 2039.1 AND (II) THE JOINT MOTION TO FILE PETITION FOR APPROVAL OF SETTLEMENT OF MINORS' ACTIONS UNDER SEAL FOR WEDNESDAY, 08-24-2011, OR AS SOON THEREAFTER AS SUITS THE CONVENIENCE OF THE COURT HEARING TO BE HELD 08-26-2011 AT 11:00 A.M. POZONSKY, J (JOINT MOTION FOR SCHEDULING HEARING) THAT UPON CONSIDERATION OF THE JOINT MOTION TO FILE PETITION FOR APPROVAL OF MINORS' ACTIONS UNDER SEAL, AND THE CONFIDENTIAL AGREEMENT ATTACHED THERETO, IT IS HEREBY ORDERED THAT SAID MOTION IS GRANTED AND THAT THE FILE UNDER CASE NUMBER 2010-3954 BE SEALED INDEFINITELY IN ITS ENTIRETY. POZONSKY, J COPIES SENT ON 08-23-2011 THAT THE PETITION IS GRANTED. POZONSKY, J COPIES SENT ON 08-23-2011 THAT ARGUMENT SHALL BE HELD ON THE PG PUBLISHING COMPANY'S MOTION TO INTERVENE AND UNSEAL RECORDS ON 10-04-2011 AT 11:00 A.M. BEFORE THE HONORABLE PAUL POZONSKY

Court of Common Pleas of Washington County
Commonwealth of Pennsylvania

Full Docket Print for Case #

C-63-CV-201003954

(25) 09/06/2011 4385 1 MOTION AND ORDER

(26) 09/13/2011 4130 1 PETITION

(27) 09/19/2011 4289 1 BRIEF

(28) 09/20/2011 4208 1 ORDER

(29) 10/03/2011 4289 1 BRIEF

(30) 11/07/2011 4130 1 PETITION

(31) 11/07/2011 4289 2 BRIEF

(32) 11/07/2011 4251 3 SUPPLEMENTAL

(33) 11/14/2011 4130 1 PETITION

(34) 11/14/2011 4300 2 CERTIFICATE

(35) 11/28/2011 4023 1 ANSWER

(36) 12/20/2011 4180 1 RULE

(37) 01/24/2012 4023 1 ANSWER

POZONSKY, J (PG PUBLISHING COMPANY'S PETITION TO INTERVENE AND MOTION TO UNSEAL RECORD)
TO INTERVENE AND JOINDER IN PG PUBLISHING COMPANY'S MOTION
TO UNSEAL RECORD BY OBSERVER PUBLISHING COMPANY D/B/A
OBSERVER REPORTER
(JOINT) IN OPPOSITION TO PG PUBLISHING COMPANY'S AND THE
OBSERVER PUBLISHING COMPANY'S PETITION TO INTERVENE AND
MOTION TO UNSEAL RECORD BY THE DEFTS
OF 09-19-2011 THAT ARGUMENT AND HEARING ON THE OBSERVER'S
MOTION TO INTERVENE AND JOINDER IN MOTION TO UNSEAL RECORD
SHALL BE HELD ON 10-04-2011, AT 11 00 A M BEFORE THE
UNDERSIGNED POZONSKY, J
(JOINT) IN SUPPORT OF PG PUBLISHING COMPANY'S AND OBSERVER
PUBLISHING COMPANY'S PETITION TO INTERVENE AND MOTION TO
UNSEAL RECORD BY THE INTERVENORS
(JOINT) FOR A HEARING BY THE PROPOSED INTERVENORS
(JOINT) IN SUPPORT OF PG PUBLISHING COMPANY'S AND OBSERVER
PUBLISHING COMPANY'S RIGHT TO INTERVENE BY THE PROPOSED
INTERVENORS
BRIEF IN OPPOSITION TO PG PUBLISHING COMPANY'S AND THE
OBSERVER PUBLISHING COMPANY'S PETITION TO INTERVENE AND
MOTION TO UNSEAL RECORD BY THE DEFTS
(EMERGENCY) FOR LIMITED UNSEALING OF THE RECORD AND FOR
A RULING ON THE PARTIES' SETTLEMENT AGREEMENT AND RELEASE
BY THE PLTFS
OF SERVICE OF PLTFS ' EMERGENCY PETITION FOR LIMITED UN-
SEALING OF THE RECORD AND FOR A RULING ON THE PARTIES'
SETTLEMENT AGREEMENT AND RELEASE UPON (SEE PAPER)
VIA REGULAR MAIL ON 11-10-2011
TO PROPOSED INTERVENORS' JOINT PETITION FOR A HEARING BY
THE DEFTS
TO SHOW CAUSE THAT A RULE TO SHOW CAUSE IS HEREBY ISSUED
AGAINST DEFTS TO SUBMIT A WRITTEN RESPONSE AND BRIEFS ON
OR BEFORE 01-24-2012 AS TO WHY THE RECORD IN THIS CASE
SHOULD NOT BE UNSEALED A HEARING ON THE ABOVE WILL BE
HELD AT 11 30 A M ON 01-31-2012 POZONSKY, J,
TO PLTFS ' EMERGENCY PETITION FOR LIMITED UNSEALING OF THE
RECORD AND FOR A RULING ON THE PARTIES' SETTLEMENT AGREE-
MENT AND RELEASE BY DEFT WILLIAMS GAS/LAUREL MOUNTAIN
MIDS TREAM

Court of Common Pleas of Washington County
Commonwealth of Pennsylvania

C-63-CV-201003954

Full Docket Print for Case #

(38) 01/24/2012 4023 2 ANSWER

(39) 01/24/2012 4023 3 ANSWER

(40) 01/24/2012 4289 4 BRIEF

(41) 01/31/2012 4242 1 PRAECIPE

(42) 01/31/2012 4208 2 ORDER

(43) 02/01/2012 4208 1 ORDER

(44) 02/09/2012 4089 2 NOTICE OF APPEAL TO

(45) 02/09/2012 4089 4 NOTICE OF APPEAL TO

TO PLTFS ' EMERGENCY PETITION FOR LIMITED UNSEALING
OF
THE RECORD AND FOR A RULING ON THE PARTIES'
SETTLEMENT
AGREEMENT AND RELEASE BY DEFT MARKWEST ENERGY
PARTNERS,
L P AND MARKWEST ENERGY GROUP, L L C
TO PLTFS ' EMERGENCY PETITION FOR LIMITED UNSEALING
OF THE
RECORD AND FOR A RULING ON THE PARTIES' SETTLEMENT
AGREE-
MENT AND RELEASE BY DEFT RANGE RESOURCES
CORPORATION
IN OPPOSITION TO PLTFS ' EMERGENCY PETITION FOR
LIMITED
UNSEALING OF THE RECORD AND FOR A RULING ON THE
PARTIES'
SETTLEMENT AGREEMENT AND RELEASE BY DEFT RANGE
RESOURCES
CORPORATION
TO ATTACH VERIFICATION BY PLTFS
THAT THE PROPOSED INTERVENORS' PETITION FOR A
HEARING IS
DENIED THE PETITION TO INTERVENE AND MOTION TO
UNSEAL
THE RECORD FAILS TO COMPLY WITH THE PENNSYLVANIA
RULES OF
CIVIL PROCEDURE SEE PAPER FOR THAT REASON, AND IN
FOLLOWING THE SUPERIOR COURT'S JURISPRUDENCE IN
ALBRIGHT,
THE PETITION TO INTERVENE AND MOTION TO UNSEAL THE
RECORD
IS HEREBY DENIED POZONSKY, J
COPIES SENT ON 02-01-2012
THAT AFTER REVIEW OF THE PLTFS ' EMERGENCY PETITION
FOR
LIMITED UNSEALING OF THE RECORD AND FOR A RULING
ON THE
PARTIES' SETTLEMENT AGREEMENT IT IS HEREBY ORDERED
THAT
THE PETITION IS HEREBY DENIED FOR FAILURE TO ATTACH
A
STATEMENT OF VERIFICATION FROM COUNSEL OR THE
PARTIES AS
REQUIRED BY PENNSYLVANIA RULE OF CIVIL PROCEDURE
206.3
POZONSKY, J COPIES SENT ON 02-02-2012
SUPERIOR COURT OF PA FROM ORDER ENTERED ON
1-31-2012
PROOF OF SERVICE HON PAUL POZONSKY GAIL A MYERS,
ESQ ,
ERIN WINDLE MCDOWELL, ESQ , KATHY K CONDO-CARITIS,
ESQ ,
JAMES C SWETZ, ESQ , PETER VILLARI, ESQ , FREDERICK N
FRANK, ESQ , DOCKETING ENTRIES BY COLIN E FITCH, ESQ
SUPERIOR COURT OF PA FROM ORDER ENTERED ON
1-31-2012
PROOF OF SERVICE HON PAUL POZONSKY, JUDGE, GAIL A
MYERS,
ESQ , ERIN WINDLE MCDOWELL, ESQ , KATHY K
CONDO-CARITIS,
ESQ , JAMES C SWETZ, ESQ , PETER VILLARI, ESQ , COLIN E
FITCH, ESQ , DOCKETING ENTRIES BY FREDERICK N FRANK,
ESQ

Court of Common Pleas of Washington County
Commonwealth of Pennsylvania

C-63-CV-201003954

Full Docket Print for Case #

02/09/2012 4243 5 REQUEST
02/09/2012 4243 6 REQUEST

02/17/2012 4208 1 ORDER

02/21/2012 4229 1 NOTICE

02/21/2012 4229 2 NOTICE

02/27/2012 4208 1 ORDER

02/29/2012 4208 1 ORDER

03/06/2012 4187 1 STATMNT OF MATTERS COMPLAINED OF

03/07/2012 4187 1 STATMNT OF MATTERS COMPLAINED OF

03/14/2012 4012 1 AFFIDAVIT OF SERVICE OF

04/02/2012 4099 1 OPINION

04/04/2012 4128 1 PAPERS FORWARDED TO

04/04/2012 4372 2 LIST OF RECORD DOCUMENTS SENT

FOR TRANSCRIPT BY PG PUBLISHING COMPANY
FOR TRANSCRIPT BY OBSERVER PUBLISHING COMPANY
D/B/A
OBSERVER REPORTER
THAT THE COURT ADMINISTRATOR SHALL ORDER
TRANSCRIPTION
PURSUANT TO THE PROVISIONS OF PA R J A 5000 5 AND
5000 6 POZONSKY, J
(TRANSCRIPT REQUEST FORM) COPIES SENT ON 02-21-2012
OF APPEAL DOCKETING #234 WDA 2012 FROM SUPERIOR
COURT OF
PA
OF APPEAL DOCKETING #235 WDA 2012 FROM SUPERIOR
COURT OF
PA
OF 02-21-2012 THAT THE COURT HAS RECEIVED NOTICE OF
APPEAL
IN THE ABOVE-CAPTIONED PROCEEDINGS SEE PAPER ANY
ISSUE
NOT PROPERLY INCLUDED IN THE TIMELY FILED AND
SERVED STATE-
MENT SHALL BE DEEMED WAIVED POZONSKY, J
COPIES SENT ON 02-28-2012
THAT THE COURT ADMINISTRATOR SHALL ORDER
TRANSCRIPTION
PURSUANT TO THE PROVISIONS OF PA R J A 5000 5 AND 5000 6
POZONSKY, J (TRANSCRIPT REQUEST FORM)
ON APPEAL PURSUANT TO PA R A P 1925(B) (PG PUBLISHING
COMPANY'S CONCISE)
MATTERS COMPLAINED OF ON APPEAL PURSUANT TO PA
R A P
1925(B) BY THE OBSERVER PUBLISHING COMPANY D/B/A
OBSERVER-
REPORTER (CONCISE)
PG PUBLISHING COMPANY'S CONCISE STATEMENT OF
MATTERS
COMPLAINED OF UPON APPEAL PURSUANT TO PA R A P
1925(B)
UPON THE HONORABLE PAUL POZONSKY BY HAND
DELIVERY ON
3-6-2012
PURSUANT TO PENNSYLVANIA RULE OF APPELLATE
PROCEDURE 1925 (A)
THAT THIS APPEAL STEMS FROM A LAWSUIT FILED ON
05-27-2012
BY THE PLTTS SEE PAPER POZONSKY, J
COPIES SENT ON 04-02-2012
SUPERIOR COURT OF PA CERT MAIL #7010 2780 0003 7092
1775
TO FREDERICK N FRANK ESQ, JAMES C SWETZ, ESQ,
KATHY
K. CONDO-CARITIS, ESQ, ERIN WINDLE MCDOWELL, ESQ,
COLIN
E FITCH ESQ, GAIL A MYERS, ESQ, ROBERT N WILKEY,
ESQ, RICHARD W HOSKING, ESQ

Judgment Summary

Judgment seq
Judgement Date
Judgement Text

Judgement Amt
Judgement Code

Date 4/4/2012

Court of Common Pleas of Washington County
Commonwealth of Pennsylvania

Full Docket Print for Case #
Party Details

C-63-CV-201003954

(C)orp or (P)erson C

From the record

ATTEST:

Phyllis Ranko Matheny (do)
PROTHONOTARY

PHYLLIS RANKO MATHENY, PROTHONOTARY
My Term Expires First Monday in January, 2016

IN THE COURT OF COMMON PLEAS
OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH and
CHRIS HALLOWICH, H/W,

Plaintiffs,

NO. 2010-3954

v.

RANGE RESOURCES CORPORATION;
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM; MARKWEST ENERGY
PARTNERS, L.P.; and
PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Defendants.

TRANSCRIPT OF HEARING
BEFORE THE HONORABLE
PAUL POZONSKY,
JUDGE, ON
JANUARY 31, 2012

APPEARANCES.
PAUL D. BRANDES, ESQUIRE
Representing the Plaintiffs.

JAMES C. SWETZ, ESQUIRE,
Representing the defendant,
Range Resources Corporation.

CHRISTOPHER M. BUELL, ESQUIRE,
Representing the defendant,
Williams Gas/Laurel Mountain
Midstream.

ERIN WINDLE MCDOWELL, ESQUIRE,
Representing the defendant,
Markwest Energy Partners, L.P.

RECEIVED

APR 2012

PITTSBURGH OFFICE OF
SUPERIOR COURT

FILED

2012 Apr 16 Am 10:32

PHYLLIS RANKO MATHENY
PROTHONOTARY
WASHINGTON COUNTY, PA

2348235 WOA 2012

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ALSO PRESENT: COLIN E. FITCH, ESQUIRE,
Representing Observer
Publishing Company.

3

4

ELLIS W. KUNKA, ESQUIRE,
Representing Pittsburgh
Post-Gazette.

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Reported by:
Mary Anne Curran
Official Court Reporter

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Lodged in Prothonotary's Office: 4-16-12

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THE COURT: Good morning. Counsel want to identify themselves for the record relative to the defendants

MR. SWETZ: Your Honor, this is James Swetz for Range Resources.

MR. BUELL. Christopher Buell, on behalf of Williams Field Services and Laurel Mountain Midstream.

THE COURT: Ma'am.

MS. MCDOWELL. Erin McDowell on behalf of Markwest Energy

THE COURT: The Court, Mr. Brandes, pursuant to the request of the plaintiffs, signed a Rule to Show Cause December 20 relative to the petition that's currently being considered or that you filed with the Court relative to limited unsealing of the record, and the defendants have filed a response or actually Range Resources filed a response, which I'm guessing that each of you have joined or filed additional responses thereto?

MS. MCDOWELL. We filed an answer to the petition

THE COURT: Right. I think preliminarily the issue is whether or not your clients signed a

1 verification.

2 MR. BRANDES: I do have a verification
3 that's been signed by Mr. Villari that I filed
4 today.

5 THE COURT: I understand that Mr. Villari
6 has filed a verification. My question is whether
7 or not the Hallowichs have because the Hallowichs
8 went on the record relative to this matter, and
9 they are the parties, not Mr Villari

10 MR. BRANDES. The Hallowichs have not filed
11 a verification as of yet, Your Honor, that's true.

12 THE COURT: If the Hallowichs haven't
13 requested the unsealing of the record, I don't
14 know that I'm inclined to hear any more this
15 morning.

16 MR. BRANDES. The Hallowichs have authorized
17 us to file the --

18 THE COURT: If that is, in fact, the case,
19 then the Hallowichs have to sign.

20 MR. BRANDES: Then I'll --

21 THE COURT: That's the position of
22 defendants at least preliminarily Correct?

23 MR. SWETZ. That's correct, Your Honor. We
24 can address the other arguments today, if you
25 would like.

1 THE COURT So at least at this point the
2 Hallowichs haven't even signed?

3 MR. BRANDES: That is true, Your Honor.

4 THE COURT: And then the other part of the
5 defendant's position is that, if I understand it
6 correctly, is that if we get beyond the
7 verification issue that I would need to look at
8 the settlement agreement to make a determination
9 as to whether or not the alleged violations
10 violate the settlement agreement.

11 MR. SWETZ: Your Honor, we believe that is
12 true, and we would ask that, of course, you look
13 at the settlement agreement which is under seal --

14 THE COURT: Right

15 MR. SWETZ: -- confidentially in chambers or
16 en camera.

17 THE COURT: Candidly, I haven't looked at
18 it.

19 MR SWETZ: That was something we were a
20 little unclear about. I know there have been
21 numerous indications that you received the
22 settlement agreement.

23 THE COURT: Quite candidly, I don't know if
24 I received it. I will say categorically I haven't
25 looked at it or read it. If it's in the pile of

1 documents, I haven't It is under seal and I have
2 not read it so I don't know.

3 MR. SWETZ Your Honor, I did bring a copy
4 of the settlement agreement. If you would like to
5 view it in chambers today, we can present it
6 another way.

7 THE COURT. At this point my question is, I
8 guess for plaintiffs' counsel, we went on record
9 in chambers with the Hallowichs, and their
10 children were present, and Mr. Villari was very
11 detailed in his representation of the plaintiffs
12 and attempting to make sure that their rights were
13 protected, and unless they come with a
14 verification -- I understand you're saying that
15 they've authorized it, but, candidly, I'm not even
16 inclined to entertain it if they haven't signed of
17 record indicating yes, this is what we want to do.

18 MR. BRANDES: I understand, Your Honor. If
19 that's the Court's inclination, which I do
20 understand, I would request that the Court hold it
21 in abeyance. I will get a verification and I will
22 file a verification on behalf of the Hallowichs,
23 if Your Honor would then set it down for a hearing
24 date, at which point the record will be square for
25 Your Honor, and then we can address it at that

1 point in time.

2 THE COURT: Mr Swetz?

3 MR. SWETZ: Putting aside for the fact we
4 have sort of a post hoc verification of something
5 that may or may not be of issue, we can address
6 that, Your Honor, if you would like us to address
7 that issue. There is still additional problems

8 THE COURT: Right.

9 MR. SWETZ There are virtually no well-pled
10 facts in the petition at all. It's accusations,
11 conclusions of law. You can see that in our
12 direct answer to the enumerated paragraphs that
13 are at issue. As we presented in our brief in
14 support, petitioner does not create any material
15 issue of fact or anything of that nature as to in
16 this case whether a breach of the settlement
17 agreement occurred. Without getting into the
18 details of what is in the settlement agreement
19 because we cannot here, I can tell you there is no
20 provision that has been breached.

21 THE COURT: That's the position of each of
22 the defendants as well? That's the position of
23 Range?

24 MR. SWETZ Yes, Your Honor

25 THE COURT The position of your client,

1 sir?

2 MR. BUELL. Your Honor, we don't disagree
3 with Range's position. Our position is simply
4 with respect to the actual allegations of the
5 breach within the petition, none of those are
6 directed to my client, Williams or Laurel Mountain
7 Midstream. Our position is clearly there is no
8 allegation of breach as to us.

9 THE COURT. Your position would be that the
10 document should remain under seal as agreed?

11 MR. BUELL Absolutely.

12 THE COURT. As agreed by all of the parties?

13 MR. BUELL Absolutely, Your Honor.

14 MS. MCDOWELL: Exactly. Markwest has the
15 same position that the allegations were not
16 directed at us.

17 THE COURT. That the document should remain
18 under seal?

19 MS. MCDOWELL. Under seal, correct.

20 THE COURT. Mr. Brandes, getting beyond the
21 verification issue for the moment, your allegation
22 as to why it is that you believe that the factual
23 allegations relative to the breach?

24 MR. BRANDES: Yes, sir.

25 THE COURT: Without getting into the

1 specifics of the settlement agreement, Range's
2 position is that there is no breach.

3 MR. BRANDES: Plaintiffs disagree with that.
4 There is a clear breach of the agreement There
5 has been disclosure that is completely in breach
6 of the agreement.

7 THE COURT. The fact that a deed was
8 recorded?

9 MR. BRANDES. No, sir. The fact that a deed
10 was recorded with false information on it that
11 discloses information that should not have been
12 disclosed and disclosed this information without
13 prior consent, which is a provision of the
14 agreement, Your Honor.

15 THE COURT: Your position on that,
16 Mr Swetz?

17 MR. SWETZ There are two issues there.
18 First is if you look at their petition they're
19 alleging that we reported -- it's not in the deed.
20 It's in the statement of the value that attended
21 deed, which is required under Pennsylvania law.
22 Range had a legal obligation to report some value
23 of the property for tax purposes, realty transfer
24 tax purposes, which it did so. In doing so, in
25 citing the value of the reported statement of

1 value, Range took a look at the settlement
2 agreement, settlement provision governing this
3 particular issue, and reported the value that it
4 could support, which was the amount that was paid.
5 That's the actual consideration which changed
6 hands.

7 In a bona fide real estate transaction,
8 which was the case here, arm's length transaction
9 pursuant to a settlement, that is the amount to be
10 used. Otherwise, if no consideration has changed
11 hands, it's the nominal consideration on appraised
12 value. In this case, that was the only
13 supportable value that Range could use to satisfy
14 the obligation in order to report it.

15 Second issue, this was some kind of false
16 number that Range made up or that was not
17 reflective of the value of the property. None of
18 that is relevant here, first of all, because
19 that's -- what the law requires is what Range did,
20 and second of all, that is not incorrect. That's
21 the amount of money that was actually paid, the
22 actual consideration that was exchanged for the
23 property. Without some provision in the
24 settlement agreement that has been breached, which
25 there is not, there is no basis for a breach of

1 contract claim here.

2 I should add, Your Honor, to the extent the
3 plaintiffs want to take some position with the tax
4 agency as to what the value of the property should
5 be, that's their business. It's something that
6 was not addressed in the settlement agreement.
7 The parties didn't negotiate on that issue. It's
8 not there. Range did what it needed to do.

9 THE COURT: Mr. Brandes, how is it that the
10 statement of value that was filed by Range has in
11 any way -- first off, you're saying that the
12 statement of value is false?

13 MR. BRANDES: Yes.

14 THE COURT: And/or inaccurate?

15 MR. BRANDES: Yes

16 THE COURT: And how has that harmed --
17 whether it is or is not -- how has that in any way
18 harmed your client?

19 MR. BRANDES: It's harmed my client because,
20 Your Honor, without specifying the numbers, the
21 warranty deed specifies the consideration paid,
22 which is a sum markedly less than what --

23 THE COURT: Without getting into -- and
24 again, I haven't looked at the settlement
25 agreement at all.

1 MR. BRANDES. The harm, Your Honor --

2 THE COURT: There was a lawsuit pending.

3 MR. BRANDES: Yes, sir.

4 THE COURT: That included your clients and
5 their children

6 MR. BRANDES: Yes, sir.

7 THE COURT. You reached an agreement Part
8 of the agreement was the transfer of the property.

9 MR. BRANDES Yes, sir.

10 THE COURT: The alleged value of the
11 property was filed and a statement of value. That
12 doesn't mean that that was the settlement. The
13 settlement was and is -- and, like I said, I
14 haven't read it. I don't even know what the
15 number is, candidly -- but part of the settlement
16 was the transfer of the Hallowichs' property to
17 Range, Markwest -- again, everybody signed off on
18 this and everybody said, let's just seal it. It's
19 a settlement. Be done.

20 MR. BRANDES. Correct.

21 THE COURT: Candidly, if the children
22 weren't involved, you would have just marked it
23 settled and discontinued and no one would have
24 been the wiser.

25 MR. BRANDES. The statement of value

1 provides for what the consideration paid was.

2 THE COURT. You can dispute that all you
3 want, but the value -- I mean, it's a real estate
4 transfer requirement that there has to be some
5 statement of value. Right?

6 MR. BRANDES: Not quite, Your Honor, because
7 the statement of value document provides, complete
8 each section and file in duplicate with Recorder
9 of Deeds when the full value/consideration is not
10 set forth in the deed. It was set forth in the
11 deed. It was specifically set forth in the deed,
12 Your Honor. There was no reason to file this
13 statement of value. It was specifically set forth
14 in the deed.

15 THE COURT: Mr. Swetz, your response on
16 that?

17 MR. SWETZ: Your Honor, if you look, as I
18 mentioned before, the realty transfer tax
19 regulations in a bona fide real estate
20 transaction, the amount that needs to be the
21 recorded is the actual consideration paid for the
22 property. In this case, what is stated in the
23 deed is a nominal form of consideration, but there
24 was actual consideration that changed hands. In
25 that case, for tax purposes, Range had to report a

1 value, and the value they reported was what they
2 were legally obligated to report.

3 MR. BRANDES: That's where the disagreement
4 lies, Your Honor.

5 MR. SWETZ: We can't get into the settlement
6 agreement here.

7 THE COURT: I'm sorry?

8 MR. SWETZ: The amount that was reported is
9 not in any way a breach of the settlement
10 agreement. That's sort of main issue.

11 THE COURT: I'm looking at your petition,
12 Mr. Brandes, again, and you're talking about the
13 special warranty deed --

14 MR. BRANDES: Yes, sir.

15 THE COURT: -- that you have attached?

16 MR. BRANDES: Yes, sir.

17 THE COURT: That's Exhibit B to your
18 petition, and that says \$100.00.

19 MR. BRANDES: That's right, sir.

20 THE COURT: And where is there another --
21 Mr. Swetz, your position is that as it relates to
22 the transfer of the property, the \$550 that's
23 listed on the real estate transfer tax statement
24 of value, that that in no way breaches the
25 agreement

1 MR. SWETZ: That's correct, Your Honor.

2 THE COURT: Because Range's position is that
3 was the value of the house and the property that
4 was transferred?

5 MR. SWETZ: Yes, Your Honor, the value that
6 we needed to report because it was the actual
7 consideration that was paid.

8 THE COURT: And, Mr. Brandes, you're saying
9 that the fact that they put that realty transfer
10 tax statement of value, which, I mean, the
11 Recorder of Deeds requires that for transfer tax
12 purposes, that that statement of value somehow
13 breaches the settlement agreement?

14 MR. BRANDES That is true, and I could get
15 into the reasons why specifically, but I don't
16 know that Your Honor wants me to do that right
17 now. But, yes, there is a bona fide issue on that
18 that is directly in breach of the agreement and
19 that was not the consideration paid.

20 THE COURT: It may not be the consideration
21 paid for the total settlement of lawsuit that
22 included the children.

23 MR. BRANDES: That wasn't the consideration
24 paid for the house either, Your Honor.

25 THE COURT: And you're saying that's

1 detailed in the settlement agreement?

2 MR. SWETZ: Your Honor, if I may, if Your
3 Honor would like to see the settlement agreement,
4 I think the Court would conclude that there is
5 nothing in the agreement that gives the value of
6 the property or that specifies the number at issue
7 here. So there has been no disclosure of any
8 confidential information and there is really no
9 issue about that. If the plaintiffs had wanted to
10 work out some provision governing the filing of
11 that tax report, they should have done so. We
12 didn't see an issue at the time we entered the
13 agreement.

14 THE COURT: Okay. Getting beyond the
15 verification issue, I'm guessing that I am going
16 to have to at least look at the agreement and the
17 allegations that are made, and then make a
18 determination as to whether or not this petition
19 should be granted or not

20 MR. BRANDES Yes, sir.

21 THE COURT: What I would like to do is this.
22 First off, we don't have -- somehow we're going to
23 need -- can we at least get a copy of that so we
24 have that with our paperwork? These are all ours,
25 correct?

1 What I would ask at this point is if you can
2 provide me with the settlement agreement for my
3 review, and I'm going to tell you that once I
4 review it, I'm going to return it So it will not
5 be in our paperwork, but I would like the
6 opportunity to review it.

7 MR. SWETZ: Your Honor, I have a copy of
8 that with me today I don't know if Mr. Brandes
9 wants to review it before we submit it or anything
10 like that. It is the copy that's been executed by
11 both parties. I'm happy to present that now
12 unless you would prefer to review that later.

13 THE COURT: If you can provide it.

14 MR. FITCH: Your Honor, can I be heard?
15 I'm Colin Fitch on behalf of the
16 Observer-Reporter.

17 THE COURT: That's going to be entered at
18 the end of the day.

19 MR. FITCH: I think given the fact that
20 we're here talking about enforcing the settlement
21 agreement, we've got a cite to a case, Your Honor,
22 that is directly on point, and we think it
23 indicates that we're entitled to participate in
24 these proceedings.

25 THE COURT: Actually, I believe that you're

1 not, and I fully intend to rule on that and that
2 ruling will be entered before the end of the day.
3 In fact, I actually drafted it yesterday I don't
4 believe you're entitled to be heard on it.

5 MR. KUNKA. Ellis Kunka, counsel for the
6 Post-Gazette. I just want to note a continuing
7 objection to that.

8 THE COURT: It will be noted for the record
9 that you were both here, and, candidly, it's the
10 Court's position that this matter is settled and
11 discontinued. Again, I will be ruling on that as
12 well as this matter. Both of those will be
13 entered before the end of the day.

14 MR. KUNKA: Regarding the matter here at
15 issue, there is current case law showing that a
16 settlement agreement that is asked to be
17 interpreted --

18 THE COURT: If you want to address that and
19 provide the case law to my clerk, we'll address
20 it. If you could provide me an opportunity to
21 review the agreement and then Court will enter a
22 ruling.

23 MR. BRANDES: Your Honor, could we have an
24 opportunity to brief the issue of the agreement
25 and provisions in the agreement that plaintiffs

1 believe support plaintiffs' position?

2 THE COURT: I intend to do that and review
3 it today, but if you want me to hold off on that
4 and brief the issue -- candidly, I thought that
5 you would have done that before today.

6 MR. BRANDES: We couldn't speak to the
7 settlement agreement because it was sealed, Your
8 Honor. Now that Your Honor has the agreement, we
9 would like the opportunity to brief that issue

10 MR. SWETZ: We submit there is no need for
11 briefing. If Your Honor would like that, we would
12 be happy to provide it, but the agreement is the
13 agreement.

14 THE COURT: Candidly, I don't think I need
15 to. Just take a look at your allegations and take
16 a look at the agreement and see if it should be
17 unsealed.

18 If you have case law you want me to take a
19 look at, I would be happy to take a look at case
20 law. The bottom line is this was the plaintiffs'
21 request and, again, I come back to the issue and,
22 again, candidly, I don't even know that I'm going
23 to get to the agreement because, candidly, this is
24 the plaintiffs who are requesting this They
25 haven't signed the verification, and we have two

1 minors involved, which was the reason that the
2 Court even put all of it on the record, at the
3 specific request of Mr. Villari, in great detail,
4 and so whether I even get to a review and make a
5 determination as to whether or not there has been
6 a breach or not, I may not even get to that But
7 you filed a petition; there was a response. I
8 understand what you are saying is your position is
9 that the filing of the statement of value is a
10 breach of the agreement. Right?

11 MR. BRANDES. Not just the filing, but the
12 number indicated in the filing.

13 THE COURT. Right

14 MR. BRANDES. And, Mr. Swetz, on behalf of
15 Range, is indicating it's not a breach and it
16 shouldn't be unsealed, and, candidly, the folks at
17 Markwest are saying, in any event, we were part of
18 the settlement and we didn't do anything wrong
19 and, in any event, it shouldn't be unsealed

20 MS. MCDOWELL: Correct

21 MR. BUELL: Correct

22 THE COURT: That's your client's position,
23 the additional defendants?

24 MR. SWETZ: Currently, we have the
25 plaintiffs' counsel's opinion asking for --

1 THE COURT: Pardon?

2 MR. SWETZ: All we have here is counsel's
3 opinion.

4 THE COURT Right. I don't have the
5 plaintiffs here or the minor children involved as
6 well.

7 All right. Mr. Fitch, on behalf of the
8 Observer, and the gentleman from the Post-Gazette
9 I understand your position, and, candidly, I don't
10 know that I'm going to even get to that assessment
11 so we'll see.

12 MR. SWETZ: Your Honor, do we need to give
13 you a return address or anything for --

14 THE COURT: I would like something because
15 again, I don't need the agreement. I don't want
16 -- the agreement doesn't need to be in this file,
17 and but the plaintiffs are asking that I review
18 it. If I get beyond the verification issue, the
19 plaintiffs are asking that I review it and make a
20 determination as to whether or not there was a
21 breach and, if there was, should it be unsealed.

22 MR. BRANDES: And the record corrected with
23 the Department of Revenue, Your Honor.

24 Again, we would request an opportunity to
25 brief the issue of the agreement to point out the

1 provisions that we believe are at issue.

2 THE COURT. All right, if you want me to
3 hold off on a ruling --

4 MR. BRANDES. If Your Honor would hold off
5 for a couple of days, we could have a brief to you
6 by tomorrow.

7 MR. BUELL: My only concern with doing
8 briefing, the extent that briefing is going to
9 disclose what in our view is a confidential
10 agreement.

11 THE COURT. At this point, Mr. Brandes, I
12 don't believe I need a brief to rule on it.

13 MR. BRANDES: I could send a brief to Your
14 Honor's chambers without being of record Your
15 Honor, there are salient facts there.

16 THE COURT: All of you have been very
17 careful with regard to what you have filed based
18 on whatever your agreement is, so I'd like to just
19 leave it that way at this point.

20 MS. MCDOWELL: Thank you, Your Honor.

21 THE COURT: In the event that I think that
22 I need additional information, I'll send you a
23 notice and then hold it in abeyance, but if I
24 don't, then I'll just enter the ruling Okay?

25 MR. BUELL: Thank you, Your Honor

1 MS. MCDOWELL. Thank you, Your Honor.

2 MR. SWETZ. Thank you, Your Honor.

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(The hearing concluded.)

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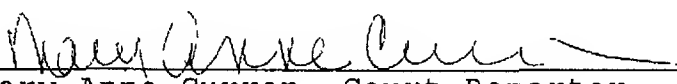
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C E R T I F I C A T E

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing of the above cause, and that this copy is a correct transcript of the same.


Mary Anne Curran, Court Reporter

The foregoing record of the proceedings at the hearing in the above cause is hereby approved and directed to be filed


PAUL POZONSKY, JUDGE

✓

CERTIFICATE AND TRANSMITTAL OF RECORD
UNDER
PENNSYLVANIA RULE OF APPELLATE PROCEDURE (1931) (c)

To the Prothonotary of the Appellate Court to which
the within matter has been appealed

THE UNDERSIGNED, Clerk (or Prothonotary) of the Court of Common Pleas of Washington County, the said Court being a Court of record, does hereby certify that annexed hereto is a true and correct copy of the whole and entire record, including and opinion of the Court as required by Pa R A P 1925, the original papers and exhibits, if any, on file, the transcript of the proceedings, if any, and the docket entries in the following manner
(caption of Case and Appellate Court No)

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W

NO. 2010-3954

Plaintiff,

234 WDA 2012

235 WDA 2012

vs.

RANGE RESOURCES CORPORATION, WILLIAMS
GAS/LAUREL MOUNTAIN MIDSTREAM, MARKWEST
ENERGY PARTNERS, L.P., MARKWEST ENERGY
GROUP, L.L.C., AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL PROTECTION,

Defendants.

in compliance with Pa R A P (1931) (c)

The documents comprising the record have been numbered from (ADD'L PAPERS)
(TRANSCRIPT) ~~XXXXXX~~ No 57 and attached hereto as Exhibit A is a list of the documents correspondingly numbered and identified with reasonable definiteness

The date on which the record has been transmitted to the Appellate Court
is 4-20-2012

SUPERIOR COURT OF PA.

CERT MAIL#7010 0780 0000 3845 2807

Phyllis Ranko Matheny (ps)
Prothonotary

PHYLLIS RANKO MATHENY, PROTHONOTARY
My Term Expires First Monday in January, 2016

✓

[illegible]

**MARKWEST'S ANSWER TO
PROPOSED INTERVENORS' JOINT
PETITION FOR EXPEDITED
ARGUMENT AND HEARING**

V.

Counsel of Record for Defendant
Mark West

Erin W. McDowell
Pa ID # 93684
ECKERT SEAMANS CHERIN &
MELLOTT, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
Tel: (412) 566-6000
*Attorneys for Defendants MarkWest
Energy Partners, LP and MarkWest
Energy Group, LLC*

2012 DEC 17 PM 3:07

filings in this matter and speaks for itself. The remainder of the allegations are denied as legal conclusions requiring no response.

4 The allegations in Paragraph 4 of the Petition are denied. The Court initially scheduled a hearing for the Joint Motion to Seal and Petition for Approval of Settlement of Minors' Actions on August 26, 2011 at 11:00 a.m., as expressly noted on the docket referenced by the Proposed Intervenor in Footnote One. Thereafter, at the request of counsel for the Hallowichs, the hearing for the Joint Motion to Seal and Petition for Approval of Settlement of Minors' Actions was rescheduled to Tuesday, August 23, 2011 at 11:00 a.m. Defendants were informed by email on Friday, August 19, 2011 by Hallowichs' counsel that Mr. Peter Villari had a scheduling conflict on August 26, 2011 and that the hearing for the Joint Motion to Seal and Petition for Approval of Settlement of Minors' Actions was rescheduled to August 23, 2011, following Mr. Villari's unilateral request to the Court. Furthermore, the allegations in Footnote One of the Petition are also denied as the Defendants are without specific knowledge or information as to whether or not the Proposed Intervenor has been able to access the docket in this matter. Indeed, this matter was unsealed from its inception in May 2010 until August 23, 2011 when the Court ordered it sealed.

5 The allegations in Paragraph 5 of the Petition are admitted to the extent that the Court held a hearing on August 23, 2011 in connection with the Joint Motion to Seal and Petition for Approval of Settlement of Minors' Actions. However, the allegations in Footnote Two are denied as the Defendants are without specific knowledge or information as to whether or not the Proposed Intervenor was aware as to why the hearing was held on August 23, 2011. Indeed, two reporters in the courtroom on August 23, 2011 identified themselves as being from the PPG,

and therefore knew that the hearing had been rescheduled to August 23, 2011, as requested by Hallowichs' counsel.

6 The allegations in Paragraph 6 of the Petition are admitted. Defendants further state in response thereto that the PPG did not file any petition to intervene until August 31, 2011, and the Observer, thereafter, on September 13, 2011 sought to join the PPG's intervention petition.

7 The allegations in Paragraph 7 of the Petition are admitted.

8 The allegations contained in Paragraph 8 of the Petition are denied as stated. The Court raised the issue of the timeliness of the Proposed Intervenor's intervention papers during the October 4, 2011 hearing. Moreover, the Defendants have continually opposed and disputed, in all respects, the Proposed Intervenor's attempts to intervene herein and unseal the record.

9 The allegations in Paragraph 9 of the Petition are denied as stated. The Court requested briefs on the specific issue of whether the Proposed Intervenor "can properly proceed under the Pennsylvania Rules of Civil Procedure." See the Honorable Paul Pozonsky's October 6, 2011 letter, attached hereto as Exhibit A.

10 The allegations in Paragraph 10 of the Petition are denied as stated. The Proposed Intervenor filed a joint petition for a hearing on November 7, 2011, which occurred on the same date as the filing of briefs on the issue of the right to intervene as requested by the Court. See Ex. A.

11 The allegations in Paragraph 11 of the Petition are denied as stated. The January 31, 2011 Order is a written document that speaks for itself and any attempts to characterize its contents are denied.

12. The allegations in Paragraph 12 of the Petition are admitted.

13 The allegations in Paragraph 13 of the Petition are denied as stated The December 7, 2012 Memoranda of the Superior Court are written documents that speak for themselves and any attempts to characterize their content are denied.

14 The allegations in Paragraph 14 of the Petition are admitted in part and denied in part It is admitted that the Proposed Intervenors and Defendants have previously filed briefs addressing the merits of unsealing the record Markest, however, denies that any factual developments necessary to complete the record exist, as MarkWest has no knowledge of what factual developments the Proposed Intervenors refer to herein Therefore, it is further denied that a hearing is necessary Should the Court allow a hearing on the claimed "factual developments", which MarkWest denies, MarkWest respectfully requests that the Court, prior to any hearing permit some limited discovery to allow the parties to adequately respond to and rebut any evidence offered by the Proposed Intervenors

15 The allegations in Paragraph 15 of the Petition are denied as stated The Petition is a written document that speaks for itself and any attempts to characterize its contents are denied It is admitted that the Petition seeks expedited argument and hearing However, it is denied that Proposed Intervenors' request for expedited argument and a hearing in this matter should be granted. The Proposed Intervenors set forth no basis for rushing this matter rather than proceeding in normal course, particularly where the contractual rights of the underlying parties are at stake Furthermore, to the extent that the Court allows argument and hearing in this matter, any scheduling order must adequately account for the Defendants appeal period of the Superior Court's December 7, 2012 decision

16 The allegations in Paragraph 16 of the Petition are denied The Motion to Unseal represents the Proposed Intervenor's mere curiosity in reviewing a private, confidential settlement agreement entered into by the underlying parties.

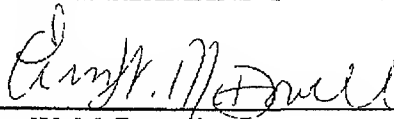
17 The allegations in Paragraph 16 of the Petition are denied as legal conclusions requiring no response By way of further response, the Superior Court's decision did not order or imply that the proceeding on remand be expedited

WHEREFORE, MarkWest respectfully requests that the Court deny the Proposed Intervenor's Joint Petition for Expedited Argument and Hearing

Respectfully submitted,

ECKERT SEAMANS CHERIN & MELLOTT, LLC

By

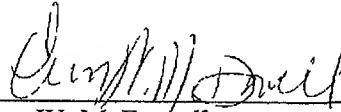


Erin W McDowell
Attorney ID 93684
600 Grant Street, 44th Floor
Pittsburgh, PA 15219-2788
Telephone: (412)566-6070

*Attorneys for MarkWest Energy Partners, L P ,
and MarkWest Energy Group, L L C*

VERIFICATION

I verify that the facts set forth in this Answer to Proposed Intervenor's Joint Petition for Expedited Argument and Hearing are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa C S § 4904, relating to unsworn falsification to authorities.



Erin W. McDowell
Eckert Seamans Cherin & Mellott LLC
Attorneys for MarkWest Energy Partners, LP and
MarkWest Energy Group LLC

Dated December 17, 2012

CERTIFICATE OF SERVICE

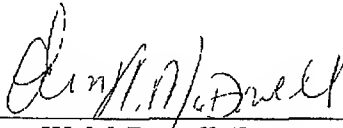
I hereby certify that a true and correct copy of the foregoing **MarkWest's Answer to Proposed Intervenor's Joint Petition for Expedited Argument and Hearing** was served on the following individuals by United States mail this 17th day of December, 2012

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Colin E. Fitch
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800 Washington Trust Building
30 East Beau Street
Washington, PA 15301



Erin W. McDowell, Esq.



COURT OF COMMON PLEAS OF WASHINGTON COUNTY
TWENTY-SEVENTH JUDICIAL DISTRICT OF PENNSYLVANIA
WASHINGTON COUNTY COURTHOUSE
ONE SOUTH MAIN STREET
WASHINGTON, PENNSYLVANIA 15301

PAUL POZONSKY
JUDGE

724-228-6826

Today is Thursday
October 6, 2011

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Eckert Seamans Cherin & Mellott,
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Kathy K. Condo, Esquire
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& Zomnir, P.C.
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Cohn E. Fitch
Marriner, Jones & Fitch
800 Washington Trust Building
30 East Beau Street
Washington, PA 15301

RE Hallowich & Hallowich v. Range Resources Corporation, Williams Gas/Laurel Mountain
Midstream, Markwest Energy Partners, L.P., Markwest Energy Group, L.L.C., and Pennsylvania
Department of Environmental Protection
Case No. 2010-3954

Ladies and Gentlemen:

Please submit any briefs on or before November 7, 2011. The briefs should specifically address the issue of intervention, and whether the proposed intervenors can properly proceed under the Pennsylvania Rules of Civil Procedure.

If any further hearing is required in this matter, the Court will enter an appropriate Order scheduling such a hearing after review of all briefs filed on or before November 7, 2011.

Should you have any questions, please feel free to contact my chambers, at your convenience.

Very truly yours,

Paul Pozonsky, Judge

PP/jhc

OCT 14 2011



IN THE COURT OF COMMON PLEAS
OF WASHINGTON COUNTY, PENNSYLVANIA

STEPHANIE HALLOWICH AND CHRIS
HALLOWICH, H/W,

Plaintiffs,

v.

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM; MARKWEST ENERGY
PARTNERS, L.P., MARKWEST ENERGY
GROUP, L L C , and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

CIVIL ACTION

No. 2010-3954

WILLIAMS GAS/LAUREL
MOUNTAIN MIDSTREAM'S
ANSWER TO INTERVENORS'
JOINT PETITION FOR EXPEDITED
ARGUMENT AND HEARING

Filed on behalf of Williams Gas/Laurel
Mountain Midstream

Counsel of Record for this Party

Kathy K Condo (PA 34910)
Christopher M Buell (PA 204068)
Babst, Calland,
Clements and Zomnir, P C.
Two Gateway Center, 6th Floor
Pittsburgh, PA 15222
(412) 394-5400

FILED

12 DEC 18 AM 11:00

CLERK OF COURT
WASHINGTON CO. PA.

IN THE COURT OF COMMON PLEAS
OF WASHINGTON COUNTY, PENNSYLVANIA

STEPHANIE HALLOWICH AND CHRIS
HALLOWICH, H/W,

CIVIL ACTION

No. 2010-3954

Plaintiffs,

v

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L L C., and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

**WILLIAMS GAS/LAUREL MOUNTAIN MIDSTREAM'S
ANSWER TO INTERVENORS' JOINT PETITION
FOR EXPEDITED ARGUMENT AND HEARING**

Defendants Williams Field Services Company, LLC, and Laurel Mountain
Midstream, LLC (collectively "Williams") file the following Answer to the Intervenor's
Joint Petition for Expedited Argument and Hearing.

Introduction

The Intervenor asks the Court to schedule an expedited hearing and argument
on their request to unseal the record in this proceeding. However, the Intervenor points
to no prejudice that they will suffer if the Court allows this matter to proceed in the
normal course. In fact, the passage of time since the proceedings that the Intervenor

seek to access and publicize counsels *against* expediting matters and rushing to a decision. Providing adequate time to reach a decision on the Intervenor's petitions will not prejudice the Intervenor at this stage. Accordingly, Williams respectfully requests that, to the extent the Court believes that a hearing and argument is necessary, the Court provide reasonable deadlines for the parties to submit any necessary briefing and evidence. Furthermore, depending upon what "factual developments" the Intervenor seeks to present at any such hearing, some limited discovery by the other parties to this matter may be appropriate to allow the parties to adequately respond to and rebut any evidence offered by the Intervenor.

Answer

1 Admitted

2 Admitted

3 Admitted

4 The allegations in Paragraph 4 are denied. The Court initially scheduled a hearing for the Joint Motion to Seal and Petition for Approval of Settlement of Minors' Actions on August 26, 2011 at 11:00 a.m., as expressly noted on the docket referenced by the Intervenor in Footnote One. The hearing was rescheduled to Tuesday, August 23, 2011 at 11:00 a.m. at the request of counsel for the Hallowiches. Williams' counsel was informed by email on Friday, August 19, 2011, that the hearing for the Joint Motion to Seal and Petition for Approval of Settlement of Minors' Actions was rescheduled to August 23, 2011, following the Hallowiches' counsel's unilateral request to the Court.

5 It is admitted that the Court held a hearing on August 23, 2011, regarding the Joint Motion to Seal and Petition for Approval of Settlement of Minors' Actions. However, the allegations in Footnote Three are denied as Williams is unaware whether the Intervenor was aware of why the hearing was held on August 23, 2011. By way of further response, the Post-Gazette has previously admitted that it was aware of the actual date and time of the hearing because it alleged that it had two reporters present in the courtroom on that date and time.

6. Admitted.

7 Admitted with clarification. By letter from Peter Villari dated August 31, 2011, the Hallowiches advised the Court that they were taking no position and would defer to the Court's discretion.

8 Admitted.

9 Admitted.

10 Admitted. By way of further response, in their prior joint petition for a hearing, the Intervenor stated that they sought a hearing to provide evidence regarding when and what objections to the Joint Motion to Seal were made by the Post-Gazette at the August 23, 2011, court proceedings. This evidence is irrelevant following the Superior Court's ruling on appeal in this matter because the Superior Court held that the Court should consider the merits of the Intervenor's petitions to intervene and unseal the record.

11 Admitted.

12 Admitted.

13 Admitted with clarification The Superior Court directed this Court to rule on the merits of the Intervenor's petitions to intervene and to unseal the record.

14 It is admitted that the Intervenor's and the Defendants previously submitted briefs regarding the question of whether the records should be unsealed. The remaining averments are denied because Williams has no knowledge of what factual developments subsequent to the filing of the briefs the Intervenor's are referring to

15 It is admitted that the Intervenor's request an expedited argument and hearing on their motions to unseal the record. However, it is denied that expedited argument and hearing is necessary here for the reasons set forth in the introduction above

16 Denied The motions to unseal the record seek to satisfy curiosity regarding the terms of a private and confidential settlement agreement among the parties to the underlying proceeding. That private agreement is not a matter of substantial public importance and is distinct from any underlying issues that the Intervenor's suggest may have public importance

17 Denied Judge Ott noted only that constitutional and common-law principles provided a means for the Court to consider the Intervenor's motions to unseal the record in this proceeding. Neither Judge Ott nor the Superior Court expressed an opinion that this matter should be expedited on remand. By way of further response, the passage of time in this matter counsels *against* expediting matters and rushing to a decision, as the proceedings that the Intervenor's seek to access are more than a year old and providing adequate time to reach a decision on the Intervenor's petitions will not

prejudice the Intervenor at this stage. Accordingly, Williams respectfully requests that, to the extent the Court believes that a hearing and argument is necessary, the Court provide reasonable deadlines for the parties to submit any necessary briefing. Furthermore, depending upon what "factual developments" the Intervenor seeks to present at any such hearing, some limited discovery by the other parties to this matter may be appropriate to allow the parties to adequately respond to and rebut any evidence offered by the Intervenor.

Respectfully submitted,

Date: December 17, 2012



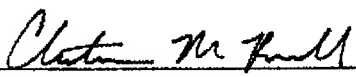
Kathy K. Condo (PA 34910)
Christopher M. Buell (PA 204068)
Babst, Calland, Clements and Zomnir, P.C.
Two Gateway Center, 6th Floor
Pittsburgh, Pennsylvania 15222
(412) 394-5400

Counsel for Williams Gas/Laurel Mountain
Midstream

VERIFICATION

I, Christopher M Buell, verify that, under the penalties of 18 Pa. C S A § 4904 relating to unsworn falsification to authorities, the facts set forth in the foregoing Answer to Intervenor's Joint Petition for Expedited Argument and Hearing are true and correct to the best of my knowledge, information and belief

Date December 17, 2012



Christopher M Buell

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **Answer to Intervenors' Joint Petition for Expedited Argument and Hearing** was served on December 17, 2012, via first-class U S mail upon the following

Peter M. Villari, Esquire
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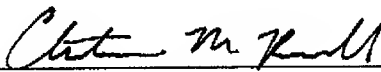
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Eckert Seamans Cherin
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Washington, PA 15301



Christopher M. Buell

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W

Plaintiffs,

VS.

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P., MARKWEST ENERGY
GROUP, L.L.C., AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendants.

No. **C-63-CV-201003954**

**INTERVENORS' JOINT PETITION
FOR EXPEDITED ARGUMENT
AND HEARING**

Counsel of Record for Intervenors:

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Pa. I.D. #10395

Ellis W. Kunka, Esquire
Pa. I.D. #311929

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*Attorneys for PG Publishing Company,
d/b/a The Pittsburgh Post-Gazette*

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Pa. I.D. #56710

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Washington, PA 15301
(724) 225-6600

*Attorneys for Observer Publishing
Company, d/b/a Observer Reporter*

2012 DEC 19 AM 10:18

PRO. CL. 1000



IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W,

Plaintiffs,

vs.

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P., MARKWEST ENERGY
GROUP, L.L.C., AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendants.

No. C-63-CV-201003954

NOTICE OF PRESENTATION

TO:

Erin Windle McDowell, Esquire
44th Floor, 600 Grant Street
Pittsburgh, PA 15219
(Counsel for Markwest Energy Partners L.P.
& Markwest Energy Group, L.L.C.)

Peter Villari, Esquire
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428
(Counsel for Plaintiffs)

Kathy K. Condo-Caritis, Esquire
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222
(Counsel for Williams Gas/Laurel
Mountain Midstream)

James C. Swetz, Esquire
K & L Gates, L.L.P.
K & L Gates Center, 210 Sixth Avenue
Pittsburgh, PA 15222
(Counsel for Range Resources Corporation)

KINDLY TAKE NOTICE that the within **Intervenors' Joint Petition for Expedited Argument and Hearing** will be presented to The Honorable Gary Gilman on the **17th day of December, 2012** at **9:15 a.m.** in Courtroom No. 4, Washington County Courthouse, 1 South Main Street, Washington, PA 15301.



Frederick N. Frank
Attorney for Intervenors

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W,

Plaintiffs,

vs

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P., MARKWEST ENERGY
GROUP, L.L.C., AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendants.

No. C-63-CV-201003954

**INTERVENORS' JOINT PETITION FOR EXPEDITED ARGUMENT AND
HEARING**

AND NOW, Intervenor, PG Publishing Company, d/b/a The Pittsburgh Post-Gazette ("Post-Gazette"), by and through their attorneys, Frederick N. Frank, Esquire, Ellis W. Kunka, Esquire, and Frank, Gale, Bails, Murcko & Pocrass, P.C. and Observer Publishing Company, d/b/a Observer Reporter ("Observer Reporter"), by and through their attorneys, Colin E Fitch, Esquire, and Marriner, Jones & Fitch (collectively "Intervenors") hereby moves this Honorable Court for an order scheduling an expedited argument and hearing in the above-captioned case. In support thereof, the Intervenor state as follows:

1. On May 27, 2010, Stephanie and Chris Hallowich (collectively "Hallowichs") commenced this action by a praecipe to issue a writ of summons against Range Resources Corporation, Williams Gas/Laurel Mountain Midstream, MarkWest

Energy Partners, L.P., MarkWest Energy Group, L.L.C. (collectively "Defendants") and the Pennsylvania Department of Environmental Protection.

2. A settlement was executed in late June 2011 between the Hallowichs, the Hallowichs' on behalf of their two minor children, and the Defendants.

3. On July 28, 2011, the Hallowichs filed a Petition for Approval of Settlement of Minors' Actions Pursuant to Pa.R.C.P. 2039 and Local Rule 2039.1 ("Petition for Approval of Settlement of Minors' Actions") before this Court, asking this Court to approve a settlement with the Defendants, which was required due to the Hallowichs' two minor children being parties to the settlement agreement. On the same date, a Joint Motion to File Petition for Approval of Settlement of Minors' Actions Under Seal ("Joint Motion to Seal") was filed by the Hallowichs.

4. Upon consideration of these pleadings, the Court scheduled a hearing in closed court chambers for either August 24, 2011 or August 26, 2011.¹

5. On August 23, 2011,² this Court held a hearing on the Petition for Approval of Settlement of Minors' Actions and the Joint Motion to Seal.

6. After the record was sealed by the August 23, 2011 Order of Court, Intervenors filed Petitions to Intervene and Motions to Unseal the Record.

¹ Intervenors only have access to a partial docket, dated August 23, 2011, which states in the "Event Summary," under August 11, 2011

"Upon consideration of the Joint Motion for Scheduling Order, this Court hereby schedules a hearing in closed court chambers on (I) [Petition for Approval of Settlement of Minors' Actions] and (II) [Joint Motion to Seal] for Wednesday, 08-24-2011, or as soon thereafter as suits the convenience of the Court. Hearing to be held 08-26-2011, at 11:00 a.m."

Due to the sealing of the record, and the ambiguity in the docket, Intervenors are uncertain when the hearing was scheduled to occur

² Intervenors are unaware of any order of court that re-scheduled the hearing for August 23, 2011, or any reason as to why the hearing was held on August 23, 2011

7. A hearing was scheduled on the motions for October 4, 2011. Intervenor and Defendants filed briefs in support of their respective positions in advance thereof. The Hollowichs took no position on Intervenor's request to unseal the record.

8. At the October 4, 2011 hearing and argument on the Intervenor's Motions, this Court *sua sponte* raised the issue of Intervenor's right to intervene even though the Defendants had not raised a challenge to that right.

9. This Court then requested briefs on the issue of the right of the Intervenor to intervene in this matter.

10. Subsequent to the filing of briefs by the Intervenor and the Defendants on the issue of Intervenor's right to intervene, Intervenor presented a joint petition for a hearing on the Motions to Unseal the Record or about November 7, 2011.

11. By Order of Court dated January 31, 2012, this Court denied Intervenor's request for a hearing and further denied the Intervenor the right to intervene in this matter. A true and correct copy of this Court's Order of January 31, 2012 is attached as Exhibit "A." This Court never reached the merits of the Motions to Unseal the Record.

12. Intervenor then appealed this Court's Order of January 31, 2012 to the Pennsylvania Superior Court.

13. By memorandum dated December 7, 2012, a true and correct copy of which is attached as Exhibit "B", the Superior Court reversed this Court's Order of January 31, 2012 and directed this Court to rule on the merits of Intervenor's Motions to Unseal the Record. Jurisdiction was relinquished by the Superior Court. Superior Court Judge Ott filed a concurring and dissenting memorandum which is also attached as Exhibit "B."

14. The underlying issue of the right to have the record unsealed has been previously briefed by the Intervenor and the Defendants. Intervenor, however, continue to request a hearing, as there have been factual developments subsequent to the filing of those briefs that are necessary to complete the record.

15. For the reasons stated aforesaid, Intervenor request an expedited argument and hearing on their Motions to Unseal the Record. Reaching the merits of the motions now has been delayed for fifteen months due to an erroneous *sua sponte* ruling by this Court denying Intervenor the basic right to have the underlying issues heard.

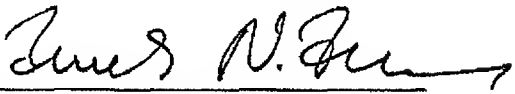
16. The Motions to Unseal the Record present an issue of substantial public importance which has received national and international media coverage, in addition to extensive coverage by the Intervenor. The Hallowichs claimed that their property and their personal well-being, as well as that of their children, was substantially damaged and impaired by natural gas drilling by the Defendants.

17. Further, as Judge Ott noted in her concurring and dissenting opinion, the Motions to Unseal the Record involve critical constitutional and common law rights of the Intervenor. The delay of adjudication of the merits substantially has prejudiced those rights. Notably, the Superior Court granted Intervenor's request to hear their appeal on an expedited basis.

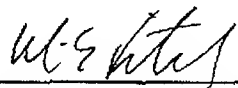
WHEREFORE, Intervenor request this Honorable Court grant an expedited hearing and argument as proposed in the attached order of court

Respectfully submitted,

FRANK, GALE, BAILS, MURCKO &
POCRASS, P.C.

By: 
Frederick N. Frank, Esquire
***Attorneys for PG Publishing Company,
d/b/a The Pittsburgh Post-Gazette***

MARRINER, JONES & FITCH

By: 
Colin E. Fitch, Esquire
***Attorneys for Observer Publishing
Company, d/b/a Observer Reporter***

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH

Plaintiff,

vs.

No. 2010-3954

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARK WEST ENERGY
PARTNERS, L.P., MARKWEST ENERGY
GROUP, L.L.C., AND PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants.

ORDER

AND NOW, this 31st day of January, 2012, after review of the Joint Petition for Intervention filed by PG Publishing Company and Observer Publishing ("Proposed Intervenor") it is hereby **ORDERED, ADJUDGED** and **DECREED** that the Proposed Intervenor's Petition for a Hearing is **DENIED** as there is no factual issue which would require this Court to have a hearing.

The Petition to Intervene and Motion to Unseal the Record is not proper under the Pennsylvania Rules of Civil Procedure. The Superior Court has held:

To petition the court to intervene after a matter has been finally resolved is not allowed by our Rules of Civil Procedure. It is only during the pendency of an action that the court may allow intervention. Pa.R.C.P. 2327. An action is "pending", according to Black's Law Dictionary (5th Ed.), when it is:

begun, but not yet completed; during; before the conclusion of; prior to the completion of; unsettled; undetermined; in process

EXHIBIT A



of settlement or adjustment. Thus, an action or suit is "pending" from its inception until the rendition of final judgment.

As our Commonwealth Court recognized in *Santangelo Hauling, Inc. v. Montgomery County*, 479 A.2d 88 (1984), where a court no longer has power to permit intervention because a matter has been finally adjudicated, a hearing on a petition to intervene would be pointless.

In re Estate of Albright, 545 A.2d 896, 899 (Pa. Super. 1988), appeal denied, 522 Pa. 571, 559 A.2d 33 (Pa. 1989) See also *In re T.T.*, 842 A.2d 962 (Pa Super. 2004), and *Wecht v. Roddey*, 815 A.2d 1146 (Pa. Commw. Ct. 2004).

The Petition to Intervene and Motion to Unseal the Record fails to comply with the Pennsylvania Rules of Civil Procedure, as it was not filed during the pendency of an action. *Pa.R.C.P.*, 2327. For that reason, and in following the Superior Court's jurisprudence in *Albright*, the Petition to Intervene and Motion to Unseal the Record is hereby **DENIED**.

BY THE COURT:


Paul Fozonsky, Judge

J.A26035/12 & J.A26036/12

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W

IN THE SUPERIOR COURT OF
PENNSYLVANIA

v.

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P., MARKWEST ENERGY
GROUP, LLC AND PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

APPEAL OF: OBSERVER PUBLISHING
COMPANY D/B/A OBSERVER-REPORTER,
PROPOSED INTERVENOR

No. 234 WDA 2012

Appeal from the Order Entered January 31, 2012
In the Court of Common Pleas of Washington County
Civil Division No(s): C-63-CV-201003954

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W

IN THE SUPERIOR COURT OF
PENNSYLVANIA

v.

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P., MARKWEST ENERGY
GROUP, LLC AND PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

APPEAL OF: PG PUBLISHING COMPANY,
PROPOSED INTERVENOR

No. 235 WDA 2012

Appeal from the Order Entered January 31, 2012
In the Court of Common Pleas of Washington County
Civil Division No(s): C-63-CV-201003954

EXHIBIT B

BEFORE: OLSON, OTT, and FITZGERALD,* JJ.

MEMORANDUM BY FITZGERALD, J.:

FILED: December 7, 2012

Observer Publishing Company, d/b/a Observer-Reporter ("The Observer-Reporter") and PG Publishing Company ("The Post-Gazette") (collectively "Appellants") each appeal from the orders entered in the Washington County Court of Common Pleas denying their petitions, on untimeliness grounds, to intervene in the underlying hydraulic fracturing ("fracking") matter and to unseal the record.¹ For ease of disposition we address these two appeals together.² Appellants, who are both in the business of publishing daily newspapers, seek to unseal a settlement agreement between the homeowner-plaintiffs and fracking companies-defendants. We vacate and remand for the court to rule on the merits of Appellants' petitions.

The parties of the underlying matter are plaintiffs Stephanie Hollowich and Chris Hallowich, husband and wife ("Plaintiffs"), and defendants Range

* Former Justice specially assigned to the Superior Court.

¹ An order denying a petition to intervene is "final and appealable under the collateral order rule embodied in Pa.R.A.P. 313." **PA Childcare LLC v. Flood**, 887 A.2d 309, 310 n.1 (Pa. Super. 2005) (citation omitted).

² A joint *amici curiae* brief was filed by: the Philadelphia Physicians for Social Responsibility; Physicians, Scientists, and Engineers for Healthy Energy; Earthworks, and several individuals. This brief cites water and air pollution and health risks caused by shale gas development, and advocates **unsealing** the record, to "improve transparency about gas operations and their health effects." *Amici Curiae* Brief at 3, 5.

Resources Corporation, Williams Gas/Laurel Mountain Midstream, Markwest Energy Partners, L.P., Markwest Energy Group, LLC, (collectively, "Defendants") and the Pennsylvania Department of Environmental Protection ("DEP"). The DEP "has not taken part in this litigation in any way." Trial Ct. Op., 4/2/12, at 2. For purposes of this appeal, we refer to all of the defendants, with the exception of the DEP, collectively as "Appellees"; they have filed a joint appellee's brief.

Plaintiffs commenced this matter on May 27, 2010, by filing a praecipe to issue a writ of summons. "The lawsuit concerns fracking in and around Plaintiffs' property by Defendants, and Plaintiffs were vocal critics of the fracking process during the pendency of this litigation.^[1]" *Id.* at 1. One year later, the parties reached a settlement agreement, which bound not only Plaintiffs, but also their minor children. The trial court summarized:

Because minor children were involved, [on July 28, 2011,] Plaintiffs filed a Petition for Approval of Settlement of Minors' Actions in accordance with Pa.R.C.P. 2039 and Washington County Local Rule of Court 2039.1. "The settlement agreement contains express confidentiality provisions, collaboratively drafted and consented to by both parties, which are designed to protect Plaintiffs' and Defendants' interest in prevent public disclosure of the terms of their private agreement to resolve this case."

Id. at 2 (citations to record omitted).

On August 11, 2011, Appellees filed a joint motion for a scheduling order for a "hearing in closed court or in chambers" to hear Plaintiffs' petition for approval of the minors' settlement agreement. Joint Mot. for

Scheduling Order, 8/11/11, at 1. The motion specifically requested a hearing date of "August 24, 2011, or as soon thereafter as suits the convenience of the Court." *Id.* at 3. An un-stamped scheduling order, dated August 11th, appears in the certified record; a handwritten note, "Hearing to be held August 26, 2011, at 11:00 a.m." appears at the bottom. The trial docket includes one entry for both the scheduling motion and order, which states, "Hearing to be held 08-26-2011, at 11:00 A.M."

Despite the order, the trial court held a settlement conference in chambers on August **23**, 2011. The court's opinion stated, "The settlement conference was rescheduled at the request of the parties to August 23, 2011." Trial Ct. Op. at 2. However, neither the trial docket nor certified record indicates any request for, or notice of, the change in date. On the date of the hearing, "[t]wo reporters identified themselves as being from the Pittsburgh Post-Gazette and requested to join the in chambers settlement conference; that request was denied by the Court."³ *Id.* at 2. Appellees

³ The record does not indicate how the reporters learned of the hearing. Furthermore, The Post-Gazette avers in its brief that a court official denied the reporters' request to enter the chambers, but informed them "that the Post-Gazette's objections had been noted in the official record by the trial court." Post-Gazette's Brief at 8 (citing Appellants' Joint Brief in Support of Pet. to Intervene and Mot. to Unseal Record). The only indication in the certified record of the reporters' objection is in the trial court opinion, as we have summarized above.

filed a joint motion to seal the record,⁴ which the trial "court signed and filed **that same day** at the specific request of all the parties." *Id.* (emphasis added). Two weeks later, on September 6th,⁵ The Post-Gazette filed a petition to intervene and unseal the record. On September 13th, The Observer Reporter also filed a petition to intervene and joined The Post-Gazette's motion to unseal the record. The petitions invoked the Pennsylvania Constitution's provision, "All courts shall be open," and the United States Constitution First Amendment's right of access to civil proceedings. *See* U.S. Const. Amend. I; Pa. Const. Art. I, § 11.

On October 4, 2011, the court held a hearing on Appellants' petitions to intervene and unseal the entire record. The court *sua sponte* raised the issue of the timeliness of the petitions and directed all parties to brief this issue. At another hearing on January 31, 2012, the court denied Appellants' petitions⁶ on the ground that they were untimely under Pennsylvania Rule of

⁴ We note that Appellees did not seek sealing of just the settlement agreement, but the entire record.

⁵ The trial court stated, "Seven weeks later, on August 31, 2011, Appellant Pittsburgh Post-Gazette filed a Petition to Intervene and Unseal the Record." Trial Ct. Op. at 2. However, both the "filed" time-stamp on the face of the petition and the trial docket indicate this petition was filed on September 6th, which was two weeks after the hearing.

⁶ In the interim, Plaintiffs had filed an emergency petition for limited unsealing of the record and for a ruling on the parties' settlement agreement. The court also denied this petition at the January 31, 2012 hearing.

Civil Procedure 2327,⁷ as the case was no longer "pending." Trial Ct. Op. at 6. Both Appellants timely appealed, and both complied with the court's order to file a Pa.R.A.P. 1925(b) statement. Appellants' issues overlap, and we consider them together.

In The Observer-Reporter's first issue, it avers that in denying its petition to intervene, the trial court failed to determine first "whether it had a legitimate interest in opening the record, and to "articulate[] why it was appropriate to seal the record or stated what alternatives to closure it considered." Observer-Reporter's Brief at 10. The Observer-Reporter cites the United States Constitution First Amendment and Pennsylvania

⁷ Pennsylvania Rule of Civil Procedure 2327, "Who May Intervene," provides:

At any time during the pendency of an action, a person not a party thereto shall be permitted to intervene therein, subject to these rules if

(1) the entry of a judgment in such action or the satisfaction of such judgment will impose any liability upon such person to indemnify in whole or in part the party against whom judgment may be entered; or

(2) such person is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof; or

(3) such person could have joined as an original party in the action or could have been joined therein; or

(4) the determination of such action may affect any legally enforceable interest of such person whether or not such person may be bound by a judgment in the action.

Pa.R.C.P. 2327(1)-(4).

Constitution, Article I, Section 11 presumption of openness in judicial proceedings, as well as the common law requirement for a party to show his interest in secrecy outweighs the traditional presumption of openness. It then reasons the "court violated the spirit of the procedural rules and the case law on media intervention," citing to Rule of Civil Procedure 126, which provides for the liberal construing of the Rules of Civil Procedure. *Id.* at 12-13.

In The Observer Reporter's second issue, it alleges the trial court erred in denying its petition on untimeliness grounds under Rule 2327. Instead, it avers, "[a] request by the media to intervene and open judicial proceedings is proper even after the record is sealed and even if the underlying proceeding is over."⁸ Observer-Reporter's Brief at 13. The Observer Reporter also states, "The appellate courts have recognized that it is often the case that the need for public access will not be apparent until such time as an underlying case is concluded " *Id.* (citing *Commonwealth v. Frattarola*, 485 A.2d 1147 (Pa. Super. 1984) (plurality)). It further maintains, "Pennsylvania law clearly vests a newspaper with a First Amendment right to file a Petition to Intervene to access public records and

⁸ The Observer Reporter does not cite to legal authority to support this principle of law, but instead refers to a range of four pages in its own joint brief in support of the motion to intervene

judicial proceedings "⁹ *Id.* at 15.

On appeal, the Post-Gazette first avers "the oral objection of the Post-Gazette reporters [at the August 23, 2011 settlement hearing] was sufficient to raise their Constitutional and common law rights to an open proceeding." Post-Gazette's Brief at 16. The Post-Gazette also maintains that at the settlement hearing, "the court official . . . assured the reporters [their oral objections] would be put on the official record." *Id.* Furthermore, it reasons that the court erred in finding *Commonwealth v. Buehl*, 462 A.2d 1316 (Pa. Super. 1983), did not apply on the ground that *Buehl* involved criminal pretrial proceedings. Instead, The Post-Gazette contends, "The trial court's Interpretation ignores [that] well-settled Constitutional and common law rights of access to judicial records . . . apply with equal force to both criminal and civil proceedings." Post-Gazette's Brief at 17.

In its second issue, The Post-Gazette further alleges the court erred in denying its petition on untimeliness grounds under Rule 2327. It claims, "Case law is clear . . . that where the media seeks to intervene to open a judicial record, the action remains 'pending' as applied to Pa.R.C.P. 2327 because the order continues to impact the Constitutional and common law

⁹ The Observer-Reporter also asserts. (1) the court erred in ignoring the "important detail" that the DEP was a named defendant; and (2) when Plaintiffs filed their emergency petition to open the record in November 2011, "it is clear that the case was no longer 'concluded.'" Observer-Reporter's Brief at 16, 17. Because of our disposition, we do not consider these claims.

rights of the media.” *Id.* at 19. Like The Observer Reporter, The Post-Gazette also argues that the court erred in finding Plaintiffs’ filing of their emergency petition did not render the proceedings “pending.” *See id.* at 24-25. Finally, in its third issue, The Post-Gazette asserts that Appellees’ settlement agreement was a judicial record subject to access and no party could rebut the presumption of openness. *Id.* at 27.

We first note:

We review a trial court’s decision to grant or deny access to judicial proceedings under an abuse-of-discretion standard. “Our courts have recognized a constitutional right of public access to judicial proceedings based on Article I, Section 11 of the Pennsylvania Constitution, which provides that ‘all Courts shall be open.’” Pa. Const. art. I, § 11. The right of public access to judicial proceedings has an independent basis in the common law as well as in the United States Constitution. Accordingly, Pennsylvania has a mandate for open and public judicial proceedings in both the criminal and civil settings.

* * *

There are two methods for analyzing requests for closure of judicial proceedings, each of which begins with a presumption of openness—a constitutional analysis and a common law analysis. Under the constitutional approach, which is based on the First Amendment of the United States Constitution and Article I, Section 11 of the Pennsylvania Constitution, the party seeking closure may rebut the presumption of openness by showing that closure serves an important governmental interest and there is no less restrictive way to serve that interest. Under the common law approach, the party seeking closure must show that his or her interest in secrecy outweighs the presumption of openness.

PA ChildCare LLC, 887 A.2d at 311-12 (some citations omitted).

In the instant matter, the trial court denied both Appellants' petitions to intervene on the ground that they were untimely under Rule 2327. As stated above, that rule provides that "a person not a party thereto shall be permitted to intervene" "[a]t any time during the **pendency** of an action[.]" Pa.R.C.P. 2327 (emphasis added). Here, the trial court found Appellants' petitions were not filed during the "pendency" of the underlying action, but instead **after** the case settled. Trial Ct. Op. at 5.

The trial court rejected both Appellants' reliance on **Frattarola**, 485 A.2d 1147, because in that case, members of the media objected to the closure of a pre-trial criminal hearing, and thus did so during the pendency of the matter. **See Frattarola**, 485 A.2d at 1148; Trial Ct. Op. at 6. The court also distinguished the federal case of **Pansy v. Borough of Stroudsburg**, 23 F.3d 772 (3d Cir. 1994), upon which both Appellants relied. The trial court reasoned that in **Pansy**, there was no federal rule analogous to Pennsylvania Rule of Civil Procedure 2327, and thus the **Pansy** Court "did not determine . . . that the media had the absolute right to file an untimely petition to intervene." Trial Ct. Op. at 7.

We agree with the trial court that Appellants' petitions to intervene and to unseal the record were not filed during the "pendency" of the matter, as required by Rule 2327, as the matter had been settled. **See Inryco, Inc. v. Helmark Steel, Inc.**, 451 A.2d 511, 513 (Pa. Super.1982) (holding case is no longer pending under Pa R.C.P. 2327 upon settlement because

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settlement decree binds parties with same effect as final decree). However, we agree with The Observer Reporter's argument that in this matter, the trial court should have applied Rule 2327 liberally pursuant to Rule 126. Rule 126 provides:

The rules shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable. The court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties.

Pa.R.C.P. 126.

We emphasize that the only information about this matter available to the public was the trial docket, which stated the hearing was scheduled for "08-26-2011, at 11:00 A.M." Docket, at 5. Furthermore, the docket paraphrased Appellees' joint motion for a hearing and stated their requested date of "Wednesday, 08-24-2011, or as soon thereafter as suits the convenience of the court." *Id.* The docket, however, included no information that the court would instead hold the hearing earlier—not only three days before the date stated in its scheduling order, but also one day before the date requested by Appellees. In addition, we note Appellees sought to seal the entire record, and not just the settlement agreement, and the court granted Appellees' joint motion to seal the record on **the same day** it was filed.

We agree with the Observer-Reporter's reasoning that it "had no interest [in the underlying action] which would justify intervention until the


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record was sealed." **See** Observer-Reporter's Brief at 13. In light of all the foregoing, we hold the court should have liberally construed Rule 2327 and accepted as timely filed both Appellant's petitions to intervene and to unseal the record. Accordingly, we vacate the court's denials of the petitions, remand for the court to rule on the merits of the petitions, pursuant to **PA ChildCare LLC** and relevant authority. The court may request briefs and hold hearings.¹⁰

Orders vacated. Case remanded with Instructions. Jurisdiction relinquished.

Ott, J. files a Concurring and Dissenting Memorandum.

Judgment Entered.


Deputy Prothonotary

DATE: December 7, 2012

¹⁰ We note the court's advice to Plaintiffs' counsel at the January 31, 2012 hearing: "Candidly, if the children weren't involved, you would have just marked it settled and discontinued and no one would have been the wiser." N T., 1/31/12, at 10-11.

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J-A26036-12

BEFORE: OLSON, OTT, and FITZGERALD,* JJ.

CONCURRING AND DISSENTING MEMORANDUM BY OTT, J.:

FILED: December 7, 2012

I agree the Appellants have an absolute right to a hearing on their motions to unseal the record. However, I respectfully disagree with the majority's determination that intervention pursuant to Pa.R.C.P. No. 2327 is the basis for granting a hearing on unsealing the record of the minor's compromise.

Nelther Appellant had the right to intervene in the petition for a minor's compromise prior to the hearing under any section of Rule 2327. Furthermore, the proposed liberal reading of Pa.R.C.P. No. 126 to allow a post-hearing petition to intervene pursuant to Rule 2327(4) is convoluted and unnecessary.

In Pennsylvania, the common law, the first amendment to the United States Constitution, and the Pennsylvania Constitution, all support the principle of openness. "All courts shall be open." Pa. Const. Art. I, § 11. More than one basis for the public right of access to civil trials has been articulated. Nonetheless, the presumption of public access is rebuttable.

Storms ex rel. Storms v. O'Malley, 779 A.2d 548, 568 -569 (Pa. Super. 2001) (internal citations omitted). The trial court has the power to seal the official record in certain circumstances.

* Former Justice specially assigned to the Superior Court.

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J-A26036-12

Every court has supervisory powers over civil proceedings in progress before it and may deny access where such access may become a vehicle for harmful or improper purposes. *See: Nixon v. Warner Communications, Inc., supra*, 435 U.S. [589,] at 598, 98 S.Ct. [1306,] at 1312, 55 L.Ed.2d [570,] at 580. Thus, the public may be "excluded, temporarily or permanently, from court proceedings or the records of court proceedings to protect private as well as public interests; to protect trade secrets, or the privacy and reputations [of innocent parties], as well as to guard against risks to national security interests, and to minimize the danger of an unfair trial by adverse publicity."

Hutchison by Hutchison v. Luddy, 611 A.2d 1280, 1290 (Pa. Super. 1992).

Therefore, I agree with the majority that this case be remanded to the trial court for a hearing on the merits of the Appellants' motions to unseal the record.

VERIFICATION

I, Frederick N. Frank, Esquire, attorney for the Pittsburgh Post-Gazette, verify that I am authorized to execute this verification upon behalf of the Pittsburgh Post-Gazette and that the statements made in the within Joint Petition for Expedited Argument and Hearing are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

December 11, 2012

Date

Frederick N. Frank

Frederick N Frank, Esquire

CERTIFICATE OF SERVICE

I, Frederick N. Frank, Esquire, hereby certify that a true and correct copy of the foregoing JOINT PETITION FOR EXPEDITED ARGUMENT AND HEARING was served upon the following, this 11th day of December, 2012, as addressed below:

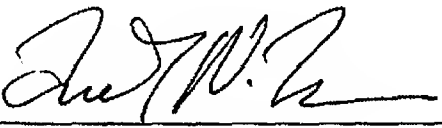
The Honorable Gary Gilman, Judge
Washington County Court of Common Pleas
Washington County Courthouse
1 South Main Street, Suite 3005
Washington, PA 15301
(via hand delivery)

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Attorney for Intervenors

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W,

Plaintiffs,

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RANGE RESOURCES CORPORATION,
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MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P., MARKWEST ENERGY
GROUP, L.L.C., AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendants.

ORDER OF COURT

AND NOW, to wit, this 19th day of December,
2012, upon consideration of the within Joint Petition for Expedited Argument and Hearing,
it is hereby ORDERED that an expedited half-day argument and hearing is scheduled
before this Court on the 19th day of January, 2013 at
9:30 A.M./P.M. in Courtroom 7. Ten days in advance of the
hearing, Intervenors may supplement their previous brief on the merits of their Motions to
Unseal the Record, and five days in advance of the hearing Defendants may supplement
their previous brief on the merits. Following the hearing, either party will have five days in
which to further supplement their briefs based upon any evidence presented at the hearing.

BY THE COURT:

Joseph J. ... J.

/

[illegible]

**DEFENDANT RANGE RESOURCES
CORPORATION'S ANSWER TO
PROPOSED INTERVENORS' JOINT
PETITION FOR EXPEDITED
ARGUMENT AND HEARING**

Counsel of Record for Defendant Range Resources - Appalachia, LLC (incorrectly named as Range Resources Corporation)

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STEPHANIE HALLOWICH AND CHRIS
HALLOWICH, H/W,

Docket No 2010-3954

V

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L L C , and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

**DEFENDANT RANGE RESOURCES CORPORATION'S ANSWER TO PROPOSED
INTERVENORS' JOINT PETITION FOR EXPEDITED ARGUMENT AND HEARING**

1 The allegations in Paragraph 1 are admitted

2 The allegations in Paragraph 2 are admitted

3 The allegations in Paragraph 3 are denied. The docket of the Court of Common

Pleas of Washington County, Pennsylvania is a public record maintaining the dates of filings in

¹ Proposed Intervenor include PG Publishing Company (“PPG”) and The Observer Publishing Company (“Observer”) Plaintiffs and Proposed Intervenor mistakenly named parent Range Resources Corporation in this action and in the Petition However, Range Resources-Appalachia, LLC, a subsidiary of Range Resources Corporation, operates in Washington County, Pennsylvania, not its parent, Range Resources Corporation

this matter and it speaks for itself. The remaining allegations are denied as legal conclusions requiring no response.

4 The allegations in Paragraph 4 are denied. The Court initially scheduled a hearing for the Joint Motion to Seal and Petition for Approval of Settlement of Minors' actions on August 26, 2011 at 11:00 a.m., as expressly noted on the docket referenced by the Proposed Intervenor in Footnote One of the Petition. Thereafter, at the request of the Hallowichs' counsel, the hearing for the Joint Motion to Seal and Petition for Approval of Settlement of Minors' Actions was rescheduled to Tuesday, August 23, 2011 at 11:00 a.m. Defendants were informed by e-mail on Friday, August 19, 2011 by Hallowichs' counsel that Mr. Peter Villari had a scheduling conflict on August 26, 2011 and that the hearing for the Joint Motion to Seal and Petition for Approval of Settlement of Minors' Actions was rescheduled to August 23, 2011, following Mr. Villari's unilateral request to the Court that the hearing date be changed to accommodate his schedule. Furthermore, the allegations in Footnote One of the Petition are also denied as the Defendants are without specific knowledge or information as to whether or not the Proposed Intervenor has been able to access the docket in this matter. Indeed, this matter was unsealed from its commencement in May 2010 until August 23, 2011 when the Court ordered it sealed.

5 The allegations in Paragraph 5 are admitted to the extent that the Court held a hearing on August 23, 2011 in connection with the Joint Motion to Seal and Petition for Approval of Minors' Actions. However, the allegations in Footnote Two are denied as the Defendants are without specific knowledge or information as to whether or not the Proposed Intervenor was aware of why the hearing was held on August 23, 2011. Indeed, two reporters in the courtroom on August 23, 2011 identified themselves as being from PPG and therefore

knew that the hearing had been rescheduled to August 23, 2011, as requested by Hallowichs' counsel

6 The allegations in Paragraph 6 are admitted

7. The allegations in Paragraph 7 are admitted.

8 The allegations in Paragraph 8 are denied The Court raised the issue of the timeliness of the Proposed Intervenors' intervention papers during the October 4, 2011 hearing Moreover, the Defendants have continually opposed and disputed, in all respects, the Proposed Intervenors' attempts to intervene and unseal the record

9 The allegations in Paragraph 9 are denied The Court requested briefs on the specific issue of whether the Proposed Intervenors "can properly proceed under the Pennsylvania Rules of Civil Procedure."

10 The allegations in Paragraph 10 are denied

11 The allegations in Paragraph 11 are denied The January 31, 2011 Order is a written document that speaks for itself and any attempts to characterize its contents are denied

12 The allegations in Paragraph 12 are admitted

13 The allegations in Paragraph 13 are denied The December 7, 2012 Memoranda of the Superior Court are written documents that speak for themselves and any attempts to character their content is denied

14 The allegations in Paragraph 14 are admitted in part and denied in part It is admitted that the Proposed Intervenors and Defendants have previously filed briefs addressing the merits of unsealing the record However, Range denies that any factual developments necessary to complete record exist, and Range therefore denies that a hearing is necessary

15 The allegations in Paragraph 15 are denied,

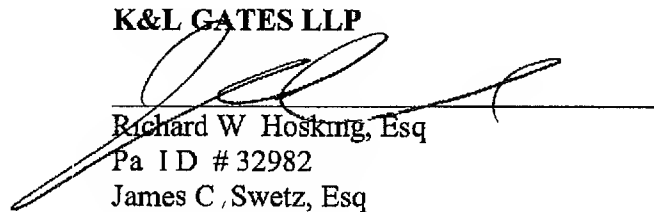
16 The allegations in Paragraph 16 are denied

17 The allegations in Paragraph 17 are denied as conclusions of law or unwarranted inferences of fact requiring no response

WHEREFORE, Range respectfully requests that the Court deny the Petition

Date December 20, 2012

K&L GATES LLP



Richard W. Hosking, Esq

Pa ID # 32982

James C. Swetz, Esq

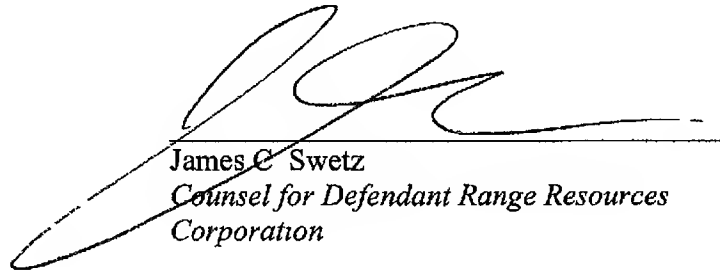
Pa ID # 208717

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***Counsel for Defendant Range Resources
Corporation***

VERIFICATION

I verify that the facts set forth in this Answer to Proposed Intervenor's Joint Petition for Expedited Argument and Hearing are true and correct to the best of my knowledge, information and belief. I understand that false statements are subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.



James C. Swetz
Counsel for Defendant Range Resources Corporation

Dated December 20, 2012

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Defendant Range Resources Corporation's Answer to Proposed Intervenor's Joint Petition for Expedited Argument and Hearing was served on the following individuals via United States mail this 20th day of December, 2012

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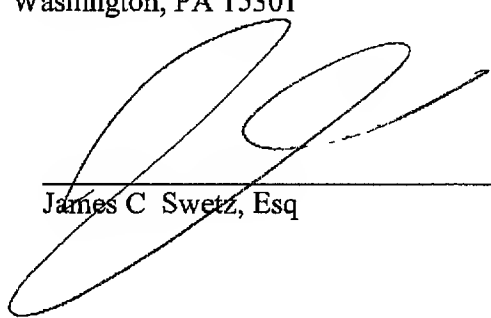
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James C. Swetz, Esq.

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W

Plaintiffs,

vs.

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P., MARKWEST ENERGY
GROUP, L.L.C., AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendants.

No. C-63-CV-201003954

**INTERVENORS' JOINT BRIEF
IN SUPPORT OF PG PUBLISHING
COMPANY'S AND OBSERVER
PUBLISHING COMPANY'S
MOTION TO UNSEAL RECORD**

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2013 JAN -8 AM 10:11

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IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W,

Plaintiffs,

vs.

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P., MARKWEST ENERGY
GROUP, L.L.C., AND PENNSYLVANIA
DEPARTMENT OF ENVIROMENTAL
PROTECTION

Defendants.

No. C-63-CV-201003954

**INTERVENORS' JOINT BRIEF IN SUPPORT OF PG PUBLISHING
COMPANY'S AND OBSERVER PUBLISHING COMPANY'S MOTION TO
UNSEAL RECORD**

I. STATEMENT OF FACTS

The matter before this Court arises from the joint petition of the PG Publishing Company, d/b/a The Pittsburgh Post-Gazette ("Post-Gazette") and Observer Publishing Company, d/b/a Observer Reporter ("Observer Reporter") (collectively "Intervenors") to intervene and open the record in this proceeding.

On May 27, 2010, Stephanie and Chris Hallowich ("the Hallowichs") commenced this action by a praecipe to issue a writ of summons against Range Resources Corporation, Williams Gas/Laurel Mountain Midstream, MarkWest Energy Partners, L.P., MarkWest Energy Group, L L C (collectively "Defendants") and the Pennsylvania Department of Environmental Protection ("DEP").

Even before the commencement of the litigation, the Hallowichs gave numerous media interviews regarding the impact of gas drilling on their family. These interviews, which continued throughout the litigation, highlight in particular the Hallowichs' two minor children, Nathan Hallowich and Alyson Hallowich (collectively "Children"). Besides discussing in detail the health ailments, names and ages, and location of the Children's residence, the Hallowichs provided, or posed for, voluminous amounts of photographs and video recordings where the Children are prominently displayed. Examples of the Hallowichs' multiple media interviews are as follows:

- A May 5, 2009 article from Reuters, attached as Exhibit "A", titled "Gas drillers battle Pennsylvania pollution concerns," which includes a photograph of Stephanie Hallowich and the Hallowichs' daughter "Alison[sic]" taken on April 23, 2009, includes the following quote from Stephanie Hallowich: "I don't want to find out in five years' time that my kids have cancer."
- An August 27, 2009 article from the BBC News titled "U.S seeks independence with natural gas", attached as Exhibit "B", in which Stephanie Hallowich, who is described as being "surrounded by natural gas wells," states.
 - "We've had problems with water, we've had air quality issues, there's an odour which has made us sick "
 - "We have two children. We have huge issues about their health."
- A July 29, 2010 article was published in the Post-Gazette, attached as Exhibit "C", titled "Wells of wealth – or woe? Questions waft from Marcellus

Shale drilling sites" in which a photograph of the Hallowichs, alongside the Children, is displayed. The article further states:

- "Homeowners Stephanie and Chris Hallowich have traveled the state, talking to land owners and offering advice to those who are considering leasing their property for drilling."
- "The family is now in litigation with the state, drilling operators and processing companies over what they claim is contamination of their water well caused by the drilling and because of noxious fumes that prevent their children from playing outside most days."
- An article appeared on the CBS News website, attached as Exhibit "D", based on a CBS Evening News report aired in September 2010, titled "A Burning Debate Over Natural Gas Drilling." The interview, conducted by Armen Keteyian, CBS News chief investigative correspondent, contained multiple shots of the Children playing on the Hallowichs' property, and includes a statement by Stephanie Hallowich that she is "very afraid, health-wise, for the kids, just because of the exposure to the water and the constant not-knowing what we're breathing in outside."¹

Not only did the Hallowichs widely publicize the lawsuit, allowing the Children to be the focal point of the publicity, but Defendants freely discussed settlement negotiations in the media as follows:

- The National Geographic News published an article on October 17, 2010, attached as Exhibit "E", titled "A Dream Dashed by the Rush on Gas" that

¹ The video interview, which includes multiple shots of the Children, can be viewed at: <http://www.cbsnews.com/stories/2010/09/04/eveningnews/mam6835996.shtml>.

extensively details the law suit. Both a representative of Range Resources and the Hallowichs were interviewed for the article. The reporting in the article includes the following:

- The Hallowichs' case is being studied as part of a larger study by the University of Pittsburgh and the University of Washington, Seattle, funded by the Heinz Endowments, on the impact of natural gas drilling on air pollution. Exhibit "E," p. 8.
- Matt Pitzarella, described as a "spokesman for Range Resources, the company that drilled the well that produces gas beneath the Hallowich site" was interviewed for the article. Exhibit "E," p. 3.
- Mr. Pitzarella and the Hallowichs detailed the offers and counter-offers to resolve the instant case: "Pitzarella says that Range has offered to buy the Hallowich property, while leaving them the mineral rights for around \$200,000. Pitzarella says the offer – which was made verbally, not in writing – was based on a real estate agent's assessment of the fair market value of the property. But the Hallowichs, who have put their house on the market for close to \$500,000, say they never received either a verbal or written offer from Range, although the company invited them to talk. They say that Range asked what they wanted; they replied that they wanted the company to buy their house, reimburse them for water, pay their legal fees, and create an escrow account for medical monitoring for the family." Exhibit "E," p. 9.

- The article also includes a photograph of the Hallowichs, alongside the Children, and quotes them as follows:

- “It’s ruined our lives. That’s what it comes down to,” says Chris [Hallowich] “It’s ruined our plans that we had for the kids. It’s ruined what we thought was our perfect ten acres.”
- “[The Hallowichs] say they fear that they and their children, now 6 and 9, face health risks from both polluted drinking water and air.”

- The article contained various photographs with accompanying captions, attached as Exhibit “F”, in which the Children are prominently displayed ²

A settlement was executed in late June 2011 between the Hallowichs, the Hallowichs’ Children, and Defendants. On July 28, 2011, the Petition for Approval of Settlement of Minors’ Actions and the Joint Motion to Seal was filed by the Hallowichs. Upon consideration of these pleadings, this Court scheduled a hearing in closed court chambers for August 24, 2011.

On August 23, 2011,³ this Court held a hearing on the Petition for Approval of Settlement of Minors’ Actions and the Joint Motion to Seal. The hearing was conducted in chambers. The two Post-Gazette reporters who were present for the hearing protested to a court official that it was being conducted in chambers and they were barred from observing the proceeding.

² The National Geographic News article also contained video, including commentary by the Hallowichs, over photographs of the Children, discussing the Children’s health issues. The video is posted and currently resides on the National Geographic News website at http://news.nationalgeographic.com/news/2010/10/photogalleries/101022-energy-gas-faces-shale-pictures/#/energy-shale-portrait02-hallowich_26860_600x450.jpg

³ While Defendant Range Resources indicates in its Answer to Proposed Intervenor’s Joint Petition for Expedited Argument and Hearing that the hearing date was changed at request of Hallowichs’ counsel, Intervenor’s are not aware of any order of court that re-scheduled the hearing for August 23, 2011.

After holding the closed court proceeding, this Court entered an order approving the settlement as to the minors' claims and sealing the record "indefinitely in its entirety." On September 6, 2011, the Post-Gazette presented the Petition to Intervene and Motion to Unseal Record. In advance of the scheduled presentation date, counsel for the Hallowichs and the DEP both sent letters to this Court that they were taking no position on the Post-Gazette's request to open the record. *See* Exhibits "G" and "H."

The Observer Reporter then filed its separate Petition to Intervene and Joinder in the Post-Gazette's petition.

In response to the Post-Gazette's petition, this Court entered an order scheduling argument on the petition for October 4, 2011 and directing that twenty days before the argument "all parties seeking to seal the record in the above-captioned case shall serve on all other parties, including the Proposed Intervenor, and the Court, an *answer* to Intervenor's motion setting forth the basis in law and in fact why the record should be sealed." (emphasis added).

Defendants did not file an answer to the motions as directed by this Court and instead filed its Defendants' Joint Brief in Opposition to PG Publishing Company's and the Observer Publishing Company's Petition to Intervene and Motion to Unseal Record ("Brief in Opposition"). Because Defendants did not file an answer, Defendant's Brief in Opposition effectively becomes their answer and Intervenor's treat it as such in this brief. Consistent with their correspondence to this Court, neither the Hallowichs nor the DEP filed an answer or any response to the Intervenor's motions to open the record.

At the October 4, 2011 argument before this Court on the Post-Gazette's and the Observer Reporters' Petitions (collectively "Petitions to Intervene and Motion to Unseal Record"), this Court *sua sponte* raised the issue of the Intervenor's right to intervene

and requested that all parties file briefs regarding the right to intervene by November 7, 2011.

On November 14, 2011, the Hallowichs filed an Emergency Petition for Limited Unsealing of the Record and for a Ruling on the Parties' Settlement Agreement and Release ("Emergency Petition"), asking, among other things, for this Court to make a ruling on whether Defendants breached certain portions of the settlement agreement.

The Hallowichs' Emergency Petition is replete with intimate details of the parties' settlement discussions and of the terms of the agreement itself, including:

- Defendant Range Resources and the Hallowichs, as part of settlement negotiations, completed an appraisal on the Hallowichs' property, which indicated a value of approximately \$258,000. The Hallowichs even attached the appraisal as an exhibit to their Emergency Petition;
- Defendants were provided with information by the Hallowichs which "establish[ed] that the value of [the Hallowichs'] property as a residential property was negligible due to Defendants' gas drilling activities.";
- "A key aspect of the [settlement agreement] was that ownership of the Hallowichs' residence would be transferred to Defendant Range." The Hallowichs also attached the special warranty deed executed as required under the terms of the settlement agreement to their Emergency Petition, which confirmed Mr. Pitzarella's prior statements that Defendant Range Resources settlement offer included Range Resources buying the property while allowing the Hallowichs to keep the mineral rights;
- The Hallowichs could not be a party to the Intervenor's petitions by virtue of their agreement with Defendants but, after receiving written

confirmation from Defendants, the Hallowichs consented to the filing of a joint motion to amend the seal order to make public nineteen filings and pleadings in the action; and

- That Defendant Range Resources' filing of a Realty Transfer Tax Statement of Value indicating the "actual cash consideration" and "total consideration" for the Hallowichs' property was \$550,000 was contrary to the terms and provisions of the settlement agreement.

Further, Defendant Range Resources' Answer to the Hallowichs' Emergency Petition also discusses key provisions and terms of the settlement agreement, particularly that Range Resources wired \$550,000 to their counsel, which payment was included in the total settlement amount that Range Resources' counsel disbursed to the Hallowichs.⁴

Notably, when filing the Emergency Petition pleadings, neither the Hallowichs nor Defendants made any effort to maintain any confidentiality of the terms of the settlement discussed in the pleadings, or avail themselves of the sealed record. All of pleadings, including Defendants' various answers, were served upon counsel for the Post-Gazette and the Observer Reporter.

By Order of Court dated January 31, 2012, this Court denied the Intervenors' Petitions to Intervene and Motion to Unseal Record and Joint Petition for a Hearing. This Court held that the Intervenors did not have standing to intervene because its request to intervene and unseal the record was "not filed during the pendency of the action." This Court never reached the merits of the Intervenors' Motion to Unseal the Record

⁴ There is a dispute as to what is actually contained in the sealed record. It is clear the record must be unsealed before that dispute can be resolved.

By Memorandum Opinion filed December 7, 2012, the Superior Court vacated this Court's denial of the Intervenor's petitions and remanded to this Court to rule on the merits of the petitions. It directed this Court to rule on the merits of Intervenor's Motion to Unseal Record pursuant to *PA ChildCare LLC v. Flood*, 887 A.2d 309 (Pa. Super. 2005) and relevant authority. Subsequently, on December 19, 2012, Intervenor filed a Joint Petition for Expedited Argument and Hearing. By Order of Court on the same date, this Court scheduled an expedited half-day argument and hearing before this Court and ordered supplemental briefing on the merits of Intervenor's Motions to Unseal the Record. For the convenience of this Court, Intervenor has prepared one brief, incorporating the arguments of their original brief.

II. ARGUMENT

A. Governing Legal Standards

The Pennsylvania Constitution mandates open judicial proceedings. "All courts shall be open." Pa. Const. Art. I, § 11. See *PA ChildCare LLC, supra*; and *Hutchinson by Hutchinson v. Luddy*, 611 A.2d 1280 (Pa. Super. 1992). The tradition of keeping proceedings and records of civil proceedings open to public observation also is founded in the common law right. As stated in *Publicker Industries, Inc. v. Cohen*, 733 F.2d 1059, 1071 (3rd Cir. 1984), "[it is] clear that the public and the press possess a First Amendment and a common law right of access to civil proceedings; indeed there is a presumption that these proceedings will be open." See also *PA ChildCare LLC, supra*.

Defendants' Brief in Opposition acknowledges both the Constitutional and common law right to open courtrooms in Pennsylvania. Defendants' Brief in Opposition, p. 7, n. 6.

The filing of a petition to intervene in order to open proceedings and records by the news media, in a civil trial, is an appropriate means of raising assertions of public rights of

access. See *Hutchinson by Hutchinson*, 611 A.2d at 1284. In determining whether the record in a civil proceeding that contains a minors' action should be sealed, the Superior Court has adopted the standards set forth by the Third Circuit in *Publicker Industries*. See *Storms ex rel. Storms v. O'Malley*, 779 A.2d 548, 568 – 69 (Pa. Super. 2001); see also *PA ChildCare LLC*, 887 A.2d at 312. Under *Publicker Industries*, a trial court must satisfy certain procedural and substantive requirements before it can deny access to civil proceedings. *Publicker Industries*, 733 F.2d at 1071.

In *Publicker Industries*, the Court held that the sealing of pleadings and the closure of trial proceedings may be warranted only when either an important governmental interest is at stake and there is no less restrictive way to serve that governmental interest, or that a clearly defined and serious injury would have occurred to the motioning party if the record were not sealed, such as the disclosure of a trade secret. *Publicker Industries*, 733 F.2d at 1070 - 71. Defendants have acknowledged that the party who seeks closure bears the burden of establishing that closure is appropriate under the circumstances. See e.g. Defendants' Brief in Opposition, at p. 7. Defendants, have also acknowledged that under Pennsylvania law, closure only is warranted where disclosure will work "a *defined and serious injury* to the party seeking closure." Defendants' Brief in Opposition, p. 7 (emphasis added).

The standards espoused by *Publicker* were reiterated by the Pennsylvania Superior Court in *R W. v. Hampe*, 626 A.2d 1218, 1220, n 3 (Pa. Super. 1993):

"There are two methods of analysis of the competing interests involved in a request for closure. In the 'first amendment' or constitutional analysis, the presumption of openness may be rebutted by a claim that the denial of public access 'serves an important governmental interest and there is no less restrictive way to serve that government interest' Under this method, which is based in the First Amendment of the United States and Art. 1, Section 11 of the Pennsylvania Constitution, it must be established that the 'material is the

kind of information that the courts will protect and that there is good cause of the order to issue'...The second method of analysis is the common law balancing approach, where a party must show that her personal interest in secrecy outweighs the traditional presumption of openness." (internal citations omitted).

The decisions of the Pennsylvania appellate courts demonstrate both how heavy a burden Defendants face and the courts' reluctance to close proceedings and seal records. In *R.W. v. Hampe*, *supra*, the Superior Court reversed the sealing of the record at the request of the plaintiff in a psychiatric malpractice lawsuit even though the "record reveals that it does contain embarrassing information, particularly of a sexual nature." 626 A.2d at 1223. *See also Hutchinson*, *supra* (affirming denial of a request to seal the record in a case involving allegations of sexual abuse of a minor by a priest). It is notable that in *Stenger v. Lehigh Valley Hospital Center*, 554 A.2d 954, 959 (Pa. Super. 1989), cited by Defendants, the Superior Court held that the intervening newspaper would "clearly have access to publish the evidence at trial" even though it potentially involved information regarding the plaintiffs' "sexual practices, their idiosyncrasies, and their personal hygiene habits."

B. The Defendants Have Not Rebutted the Presumption of Openness

i. The Defendants Have Not Rebutted the Presumption of Openness Under the Common Law Analysis

As stated *supra*, under the common law approach, the party seeking closure must show that his or her interest in secrecy outweighs the presumption of openness. To rebut the presumption of openness, as also required under the Constitutional approach, the party must establish "good cause" by showing that closure is "necessary in order to prevent a clearly defined and serious injury to the party seeking" it. *See PA ChildCare LLC*, 887 A.2d at 312; and *R.W. v. Hampe*, 626 A.2d at 1221. Discussing the type of injuries that may necessitate closure, this Court in *Hutchinson by Hutchinson* stated:

Thus the public may be "excluded, temporarily or permanently, from court proceedings or the records of court proceedings to protect private as well as public interests: to protect trade secrets, or the privacy and reputations [of innocent parties], as well as to guard against risks to national security interests, and to minimize the danger of an unfair trial by adverse publicity."

Hutchinson by Hutchinson, 611 A.2d at 1290.

The apparent gravamen of Defendants' argument is found at page 8 of their brief, which states:

"Here, there is an overriding interest that trumps any right of access the press asserts to the confidential settlement agreement and related filings - namely, that a court ruling allowing press access to a settlement agreement whenever a minor is involved, despite confidentiality provisions in the agreement negotiated and agreed to by the parties, would destroy a litigant's right to privately contract for a settlement whenever [Court] approval of that settlement is required."

While it is difficult to ascertain what precisely Defendants are arguing in their brief, as it appears Defendants' argument centers around privacy and secrecy interests, Intervenor first proceed with a common law analysis.

At the heart of this argument is the self-evident interest of Defendants to hide from the public a judicial record that shows the resolution of claims against Defendants for water and air pollution of a residential area. The Courts have long held that hiding behind an argument of privacy to avoid possible embarrassing public exposure will not overcome the Constitutional presumption. See *PA ChildCare LLC*, 887 A.2d at 313 ("[Defendant]'s weak assertions involving trade secrets appear nothing more than a ruse to prevent public exposure"); and *Publicker Industries*, 733 F.2d at 1074 (holding that potential harm as a result of exposure of poor management is not a trade secret)

This case has drawn national media coverage in which all parties participated. This case has a wide ranging impact on issues related to natural gas drilling, a subject which has drawn intense coverage and discussion in public forums in recent years. Further, this

action is of even greater import as the citizens of the Commonwealth are guaranteed the "right to clean air [and] pure water" under the Article 1, Section 27 of the Constitution of the Commonwealth of Pennsylvania. The public's right to know the case's resolution could not be farther from "mere curiosity", as Defendants contend. There are few cases that could be more compelling for public disclosure. Clearly, Defendants do not want the bright light of media coverage on the resolution of the Hallowichs' claims.

The public's right to know what transpires in judicial proceedings involving issues of public importance has been emphasized by the Pennsylvania Superior Court. Noting that Justice Holmes declared that public access to civil judicial proceedings was of "vast importance", the Superior Court reasoned:

"The educative effect of public attendance is a material advantage. Not only is respect for the law increased and intelligent acquaintance acquired with the methods of government, but a strong confidence in judicial remedies is secured which could never be inspired by a system of secrecy."

R.W. v. Hampe, 626 A.2d at 1221 (citing Wigmore on Evidence).

In the instant matter, Defendants' argument that the "overriding interest of the parties in the confidentiality of their settlement agreement outweighs any right of access to the [record]" has no support in case law. In fact, Defendants' proposition that "the mere presence of minors in a settlement does not give the public right of access to an out-of-court settlement agreement that would otherwise have been kept confidential" has been explicitly rejected by the Superior Court in *Storms*.

In *Storms*, the Superior Court noted "[a] confidentiality clause [can] never be an essential term of an agreement to settle a **minor's** claim, since settlement of a minor's claim requires court approval pursuant to Pa.R.C.P. 2039, and court proceedings are a matter of public record " *See Storms*, 779 A.2d at 568, n 12. (emphasis in original).

"Thus, [the] sealing of the record in the case of a minor's settlement is not a *pro forma* matter that is automatically performed upon the agreement of the parties, but rather, is permitted only upon analysis and approval by the court." *Id.* (emphasis in original).

The facts in *Storms*, *supra*, were strikingly similar to those in the instant matter. The cause of action arose from a claim upon behalf of the minor and her parents that she suffered injuries as a result of the medical malpractice of the defendant doctor. The defendant doctor sought to seal the record in an obvious attempt to avoid disclosure of the claims against him and the large settlement being paid to the plaintiffs. The trial court rejected the defendant's request to seal the record and the Superior Court affirmed.

In *Storms*, the Court was presented by opposition from both the plaintiffs and the defendant, as the plaintiffs eventually joined in the effort to seal the record. Here, the Hallowichs have not joined in the opposition to seal the record and instead "defer to the Court's discretion..." whether to open or seal the record. *See Exhibit "G."*

Notably, Defendants' Brief in Opposition does not cite or attempt to distinguish *Storms*. The only case Defendants cited in support of their position, *Beaver v. McColgan*, 11 Pa. D & C 4th 97 (Ct. Com. Pl. Columbia Co. 1990) is not binding precedent on this Court and was issued eleven years before the Superior Court's decision in *Storms*. Even if there was not the overriding precedent of *Storms*, *Beaver* is clearly distinguishable. In *Beaver*, the mother of the minor was the party moving to seal the record, as she wished her financial privacy protected following a tragic accident where her husband was killed, she was seriously injured and the minor was left paralyzed from the waist down. Here, the Hallowichs have neither opposed the opening of the record nor attempted to keep the litigation private, including their

financial demands. Instead they have made it a national *cause célèbre*. Further, in *Beaver*, the representative of the media remained silent in the proceedings and asserted no reason on the record why the public had an interest in the outcome

It is crucial to note that at no time have the Hallowichs objected to the Intervenor's petitions before this Court. Throughout the course of this litigation, including before the Superior Court, the Hallowichs have never filed a pleading or brief in opposition to the Intervenor's pleadings. The Hallowichs, by their failure to object at any time to opening the record, have made a *sub silentio* admission that they do not believe that they or the Children will suffer any injury by opening the record.

Indeed, it is the Hallowichs who are charged with protecting the privacy of the Children as their natural guardians. Rather than shield the Children from the public eye, in an effort to generate public interest in their case, the Hallowichs have effectively made the Children "poster children" for the claimed damages suffered as a result of Marcellus Shale drilling. In virtually every instance, the Children have been prominently displayed in photographs, video and print media. To the extent there was any privacy interest in protecting the Children's privacy, it has long been abandoned by the Hallowichs and negated by their action of publicizing the case and making public the settlement terms in their Emergency Petition. The Hallowichs have presumptively indicated they feel no such protection is needed.

Despite Defendants failure to raise any compelling interest in privacy or secrecy that outweighs the presumption of openness, or to establish that closure is necessary in order to prevent a clearly defined and serious injury to the party seeking it, no interest exists which rebuts the presumption of openness.

Additionally, Defendants have not asserted that any trade secrets or proprietary information are included in the settlement, which preclude its opening.

In *Storms*, the Superior Court rejected arguments that a serious injury would occur to the privacy of the minor child, the business reputation of the defendant, and the court's general policy to encourage settlements, if the record was unsealed, stating: "the [party seeking closure] failed to establish that they would suffer a "serious injury," absent sealing of the [settlement agreement]." *Storms*, 779 A.2d at 570. As in *Storms*, no party can rebut the presumption of openness under the common law analysis.

ii. The Defendants Have Not Rebutted the Presumption of Openness Under the Constitutional Analysis

The Superior Court in *Storms, supra*, held that to seal the record in a civil proceeding which contains a minors' action, under the Constitutional analysis, the party seeking closure must rebut the presumption of openness by showing that the closure serves an important governmental interest and that there is no less restrictive way to serve that interest. *See Storms*, 779 A.2d at 569. The *Storms* Court reiterated that under the Constitutional analysis the presumption only can be overcome by showing a clearly defined and serious injury to the party seeking closure *Id.*

Defendants have not asserted any important governmental interest in their brief which necessitates closure. To the extent Defendants seek to argue that an important governmental interest exists in the protection of minors, the record in this matter could not present a weaker case for such an argument for all the reasons noted in the common law discussion *supra*. It is clear that any such argument by the Defendants would be disingenuous in the extreme

The Pennsylvania Supreme Court by its promulgation of Pa.R.C.P. 2039, relating to the settlement of a minor's claim, directed such a settlement be a public court proceeding. It did not elect to seal the proceedings as it has done in other proceedings involving minors. Cf. Chapters 38 and 39 of the Pennsylvania Rules of Appellate Procedure related to sealed proceedings under the Abortion Control Act and the Adoption Act. Rule 2039 of the Pennsylvania Rules of Civil Procedure states: "[n]o action to which a minor is a party shall be compromised, settled or discontinued except after approval by the court pursuant to a petition presented by the guardian of the minor." In the instant matter, a private agreement is not at issue. Rather there is a mandated public court procedure whereby a petition must be presented to the court detailing the proposed settlement. The court then has the right to approve or disapprove the proposed settlement agreement. Inherently, every detail of the settlement is part of a court proceeding subject to the Constitutional mandate that such proceedings shall be open to the public.

Similarly by the DEP's failure to object to the opening of the record, the DEP acknowledges it does not believe a compelling interest, government or otherwise, exists which necessitates closure of the record.

Further, as noted *supra*, the Superior Court in *Storms* held that merely arguing the court's general policy to encourage settlements and private contracts was not enough for a party to establish that they would suffer a serious injury absent sealing of the record. *Storms*, 779 A.2d at 570. As such, the Defendants' argument that the "overriding interest of the parties in the confidentiality of their settlement agreement outweighs any right of access to the [record]" has no support in case law.

The Defendants have failed to raise any compelling government interest which would take the first step in meeting their burden under the Constitutional analysis.

Respectfully submitted,

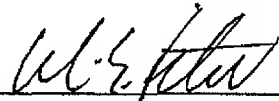
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POCRASS, P.C.

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I, Frederick N. Frank, Esquire, hereby certify that a true and correct copy of the foregoing INTERVENORS' JOINT BRIEF IN SUPPORT OF PG PUBLISHING COMPANY'S AND OBSERVER PUBLISHING COMPANY'S MOTION TO UNSEAL RECORD was served upon the following, this 8th day of January, 2013, via the manner indicated below:

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Washington County Courthouse
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Gas drillers battle Pennsylvania pollution concerns

Sun May 3 2009

By Jon Hurdle

HICKORY Pennsylvania (Reuters) - U.S. energy companies rushing to exploit Pennsylvania's massive natural gas reserves have launched a public relations campaign to calm fears the bonanza is contaminating water with toxic chemicals.

Drillers are holding public meetings to assure people the chemicals used to help extract gas from Pennsylvania's majority share of the Marcellus Shale cannot escape into drinking-water wells.

Though scientists have yet to find definitive evidence that drilling chemicals have seeped into ground water, there are dozens of anecdotal reports from around the state that water supplies in gas-production areas have been tainted.

The public outcry threatens to impede exploitation of the 44-million-acre (18-million-hectare) Marcellus Shale, which geologists say might contain enough natural gas to meet U.S. demand for a decade.

People in gas-drilling areas say their well water has become discolored or foul-smelling, their pets and farm animals have died from drinking it, and their children have suffered from diarrhea and vomiting.

Bathing in well water can cause rashes and inflammation, and ponds bubble with methane that has escaped during drilling, they say.

That's the challenge facing Matt Pitzarella, a spokesman for Texas-based Range Resources Corp. who recently told around 150 residents at the Hickory fire hall that new drilling techniques are much less damaging to the landscape than traditional ones, and that energy companies are subject to strict environmental regulations.

Other companies such as Chief Oil & Gas and Chesapeake Energy Corp. have held community meetings.

Over a dinner of beef stew, baked beans and coleslaw hosted by Range, Pitzarella said the company encased its drilling shafts in layers of steel and concrete to ensure that chemicals used to help fracture the gas-bearing rock cannot escape into aquifers.

"There are zero reports of chemical contamination of groundwater," he said.

Ron Gulla, who said his land has been polluted by Range's gas drilling, was incredulous.

"I have never seen such a bunch of liars in my life," he shouted at Pitzarella to scattered applause. "You have put me through hell."

This is how the battle lines are being drawn in the U.S. struggle to reduce dependence on foreign oil and cut carbon emissions. Marcellus is the largest of the U.S. shale gas reserves, which are trapped in sedimentary beds making it more costly to extract. (For a map of shale reserve estimates, click link.reuters.com/fur74c.)

SULFUROUS SMELL

In rural Clearville, south-central Pennsylvania, Spectra Energy Corp. is drilling to establish an underground gas storage facility.

Sandra McDaniel, 63, said federal authorities forced her, though eminent domain laws, to lease about five acres (2 hectares) of her 154 acres to Spectra to build a drilling pad on a wooded hilltop.

McDaniel watched from the perimeter of the installation as three pipes spewed metallic gray water into plastic-lined pits, one of which was partially covered in a gray crust. As a sulfurous smell wafted from the rig, two tanker trucks marked "residual waste" drove from the site.

"My land is gone," she said. "The government took it away, and they have destroyed it."

Back in Hickory, Pitzarella acknowledged that water quality was the 'No. 1 concern' but denied there was any escape of chemicals used in hydraulic fracturing, or "fracking."

Drilling injects chemicals thousands of feet below the aquifers, and companies haul away waste water for treatment when the operation is finished, Pitzarella told the meeting.

Residents say escaped methane has caused some well water to become flammable, and its buildup has led to at least one explosion in a drinking water well. Many people in drilling areas drink only costly bottled water.

Pennsylvanians say they have not found fracking chemicals in their water only because they have not known what to test for, and because of the cost of testing.

Although the state's Department of Environmental Protection publishes a list of 64 chemicals that may be used in fracking, companies won't disclose what goes into the fluid, calling the information proprietary.

The composition of fracking fluid has been unregulated since the oil and gas industry won exemptions in 2005 from federal environmental laws including the Clean Water Act and the Safe Drinking Water Act.

According to the Endocrine Disruption Exchange, a Colorado research group that has investigated the health risks of fracking chemicals, about a third may cause cancer; half could damage the brain and nervous system, and almost 80 percent have the potential to harm skin, eyes and sensory organs.

Fracking chemicals include benzene, a carcinogen, plus toluene, methanol, and 2-butoxyethylether, a substance that can reduce human fertility and kill embryos, according to Demascus Citizens for Sustainability, a group that opposes drilling.

Range's Pitzarella said the chemicals make up only 0.05 percent of the fracking mixture, and that they include unspecified substances commonly used in households such as a friction reducer like that used in contact lenses and a biocide disinfectant used in swimming pools.

Stephanie Hallowich, 37, a mother of two, said she and her husband Chris moved to the outskirts of Hickory from suburban Pittsburgh 18 months ago for a quiet rural life but are now closely surrounded by four gas wells, a three-acre (1.2 hectare) reservoir containing water for drilling, a liquid extraction plant, and a gas compressor station.

Concerned about noise, air quality and her children's health, Hallowich would like to move but can't believe anyone would buy her house.

"I don't want to find out in five years' time that my kids have cancer," she said.

Wayne Smith, 52, a Clearville farmer, said he made about \$1 million in royalties over three years from gas taken from under his 105 acres, but he now wishes he never signed the lease and wonders whether tainted water is responsible for the recent deaths of four of his beef cattle and his own elevated blood iron level.

Smith would like to get his water tested for the full range of fracking chemicals but he can't do that without specifics on the fluid's composition. "We don't know what's in it," he said. "They won't tell us."

(Editing by Daniel Trotta and Eric Welsh)

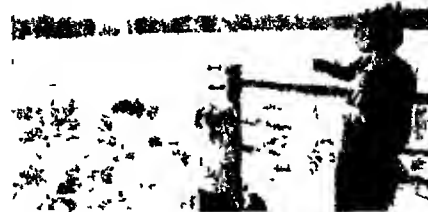


EXHIBIT A

[illegible]

EDITION: U.S.

Gas drillers battle Pennsylvania pollution concerns

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Photo: AP/Wide World

Stephanie Ralovich (R) and her daughter Alison look out over a three-acre reservoir supplying water to natural gas drilling operations around her house in Hickory, Pennsylvania, April 23, 2009.
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US seeks independence with natural gas

By Matthew Price
BBC News, Pennsylvania

The hawk flies just above the car as it rounds the corner. It glides through the trees, and comes to rest on a branch.

Around the next corner, the road opens out into a fold between the hills. An old farmhouse and barn sits up slightly to the left.

This is rural Pennsylvania - lush, green, and refreshingly cooler than the humid east coast at this time of year.

And hidden underneath all this beauty, a natural resource that could answer the US's energy prayers.

Around another small hill, and along a gravel track, sits a gas platform. It is drilling down into what is the largest natural gas field to be discovered in the US.

'Energy independence'

The company drilling here is Range Resources, and according to its vice-president, Stephen Rupert, natural gas could help break this country's dependence on foreign oil.

"Natural gas is our cleanest fossil fuel. It can be used in cars, to generate electricity. It can be liquefied and used as jet aviation fuel," he says.

Then comes the killer comment, as far as US politics is concerned right now: "The natural gas that's being used in this country at this time can really get us to energy independence."

"Energy independence" has almost become the Holy Grail in the US.

Here, the environmental debate often does not concern saving the planet, or reducing the effects of human action on the global climate.

Instead it is couched in terms of how the US can get its energy from sources other than Middle Eastern countries, from whom it currently buys the majority of its oil.

There are still those here who doubt the science and deny that human actions are causing climate change.

It is easier to sell the idea that changing where the US gets its fuel from will make the country less reliant on potentially difficult regimes.

For a while that argument helped encourage environmentalists that this country was entering a new phase, in which it would generate clean, green energy.

Now, some of them fear natural gas discoveries may be delivering (inexpensive) energy independence, without delivering a sustainable solution to the country's energy needs.

'Short term'

In the laboratories of Pittsburgh University, Laura Schaefer is huddled with a student next to a computer screen. A software program mimics river water flows in bright reds and oranges and yellows.

EXHIBIT B

" [Natural gas] is a good bridge technology, but it's not the be-all-and-end-all of energy generation "

Laura Schaefer University of Pittsburgh

Here, they are trying to develop alternative sources of energy

Natural gas may be cleaner than oil - it produces around half the greenhouse gases for the same amount of energy - but Ms Schaefer does not believe it is the answer the US needs

"We have to stop looking at the short term. Sure we can find enough fuel for the next two years, five years, 10 years, but what happens at that point when we haven't built up our renewable or alternative energy technologies?" she asks

And Ms Schaefer fears the focus on new natural gas discoveries could diminish funding for those seeking new alternative energy sources

"I do [Natural gas] is a good bridge technology, but it's not the be-all-and-end-all of energy generation," she says

'Green revolution'

Earlier this year, President Barack Obama proclaimed that the US could "become the world's leading exporter of renewable energy"

" We've had problems with water, we've had air quality issues, there's an odour which has made us sick "

Stephanie Hallowich

His Energy Secretary, Steven Chu, is a highly respected environmentalist and the Obama administration sees natural gas as a transition fuel that can help lead this country towards a new clean economy

Many in rural Pennsylvania are also optimistic. The gas industry is leasing land from local owners - there is good money to be made. But not everyone is happy

Stephanie Hallowich and her family are surrounded by natural gas wells

"We've had problems with water, we've had air quality issues, there's an odour which has made us sick," she says

"We have two children. We have huge issues about their health."

She is by no means the only one. Several families living close to gas extraction areas across the country have reported problems, and a number of court cases are progressing.

The gas companies insist they are not harming the environment. Scientists argue the processes they use to extract the gas could be cleaned up.

For many though, any environmental costs are outweighed by the economic benefits. Natural gas is seen here as a realistic alternative source of fuel - to be used in cars, in homes, to power industry and business.

Americans use more energy than anyone else on the planet. Natural gas is cheap, and available

It is not the "green revolution" some, including President Obama once spoke of. But it may be how, in the short term at least, the US chooses to meet its energy needs

Story from BBC NEWS
<http://news.bbc.co.uk/1/hi/americas/8224295.stm>

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Wells of wealth -- or woe? Questions waft from Marcellus Shale drilling sites

Thursday, July 29, 2010
By Janice Crompton, Pittsburgh Post-Gazette



Pam Panchek/Post-Gazette

Chris Hallowich, Nathan Hallowich, 9, Stephanie Hallowich and Alyson Hallowich, 5, stand on a hillside near their home to illustrate the proximity of several of the gas wells that practically surround their home and property. The roof of the Hallowich house can be seen in the upper left of the photo. One of the wells, the control facility and a 3-acre reservoir built to support the drilling operations are visible in the background between the family and their home.

EXHIBIT C

As Pittsburgh begins addressing concerns that the city could be the next stop on the Marcellus Shale wagon train, and the state wrestles with regulations and a possible new tax on the natural gas drilling industry, many people are wondering: What is this 21st century gold rush -- and how will it affect me?

The question was brought to the forefront last week when 1,200 people turned out for a public hearing in Washington County held by the federal Environmental Protection Agency to explain its new study of a controversial method to extract natural gas from the shale and how it may affect the environment, specifically water supplies.

The \$19 million study comes on the heels of concerns expressed by local land owners and environmental groups, who fear that the extraction method -- called hydraulic fracturing and known as "fracking" -- is environmentally unsafe and should be subject to tighter regulations.

To reach the Marcellus Shale, a geologic formation that is dimpled with enormous pockets of natural gas, drilling companies typically bore into the ground at depths of 5,000 feet to 8,000 feet. Then they drill horizontally for up to two miles.

After the drilling is completed, a cocktail of water and other ingredients, some of which are toxic chemicals, is blasted through high-pressure water lines into the drill hole, fracturing the shale and releasing the natural gas.

The fracking process, and the toxic ingredients in the fracking fluid, are the primary concerns cited by property owners, who are worried about the environment, their property values and their families' health.

The history

The Marcellus Shale got its name from a village near Syracuse, N.Y., where outcroppings of the organic-rich black rock were found in 1839.

The bulk of the 450-million-year-old formation, however, is thousands of feet underground in a large swath that spans 60 million acres of the Appalachian basin from its southernmost point in Tennessee, north through large portions of West Virginia,

eastern Ohio, Pennsylvania and southern New York

Drilling in the Marcellus Shale began in earnest in 2004 and 2005, when Range Resources, based in Fort Worth, Texas, drilled three exploratory wells in Washington County.

With advances in horizontal drilling technology and climbing gas prices, the industry has exploded in Pennsylvania, with 2,500 drilling permits issued by the state from 2007 to 2009 and another 5,000 expected this year. So far, 1,600 wells have been drilled, with the hope of tapping some of the estimated 363 trillion cubic feet of natural gas in the Marcellus Shale.

In the next 20 years, experts believe up to 50,000 additional wells could be drilled -- enough to supply the nation's energy needs for 15 years.

The economics

With as much as \$2 trillion worth of natural gas trapped in the Marcellus Shale, it's no wonder gas and oil companies from Texas, Colorado and Oklahoma have been flocking to southwestern Pennsylvania, where a perfect storm of sorts exists for drilling companies.

Unlike West Virginia, which is slipping behind Pennsylvania in the number of wells drilled, Pennsylvania has no severance tax yet on natural gas extraction, but one is expected to be approved by the state Legislature later this year. New York recently placed a one-year moratorium on new drilling while the environmental impacts are assessed.

Then there's the infrastructure

A natural gas pipeline originating in the gas fields of Texas and Oklahoma slices through Pennsylvania, with additional miles of pipe being laid by the week in places such as Washington County, making the state a major transmission hub to the energy-strapped East Coast.

In addition, Pennsylvania has more miles of freshwater streams than any other state except Alaska, which is important because the average Marcellus Shale gas well uses 3.5 million gallons of water for drilling and fracking.

"Pennsylvania is rapidly becoming the energy center of the East," said Lou D'Amico, executive director and president of the Pennsylvania Oil & Gas Association, a nonprofit industry group. "Geologists say [Marcellus Shale] contains the same or more Btu's than the Saudi Arabian oil fields, so this is huge."

A Btu, or British thermal unit, is the unit typically used to measure energy.

Because natural gas burns cleaner than oil or coal -- it produces fewer greenhouse gas emissions -- it has been touted by the industry and supporters as the ideal "transition" fuel, bridging the gap between fossil fuels and renewable energy sources.

An industry-funded study by Pennsylvania State University in August 2009 found that the Marcellus gas industry in Pennsylvania generated \$2.3 billion in 2008, with \$240 million in state and local tax revenue and more than 29,000 jobs created.

"With a substantially higher pace of development during 2009, economic output will top \$3.8 billion, state and local tax revenues will be more than \$400 million and total job creation will exceed 48,000," according to the study.

Within the next 10 years, the study estimated, the industry could be generating \$13.5 billion and nearly 175,000 jobs.

More and more of the impact of the drilling is being felt locally, from property owners who are realizing thousands of dollars in royalties and lease agreements to local workers who are being trained through new education programs at local colleges.

The industry is pumping millions into local businesses, from hotels to restaurants to car dealers, and it's being credited for revitalizing other industries, such as trucking and railroads.

But the outlook isn't all rosy.

The downside

State Sen. Jim Ferlo, D-Highland Park, has introduced a bill proposing a one-year moratorium on new drilling, similar to the measure in New York, and Pittsburgh City Council passed a resolution July 20 that supports such a ban until tighter regulations

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(in this story)

are in place for the industry

Although no drilling has been proposed within Pittsburgh's boundaries, leasing agents have approached residents in the city neighborhood of Lawrenceville, prompting Councilman Bill Peduto to characterize the issue as "a battle between the industry and the community."

Such battle lines have been drawn elsewhere, including at the Hallowich home in Mount Pleasant, Washington County.

Homeowners Stephanie and Chris Hallowich have traveled the state, talking to land owners and offering advice to those who are considering leasing their property for drilling.

Believing they were purchasing their dream property of 10 acres in the countryside, the couple in 2005 inadvertently inherited a gas lease signed by the previous owner.

"We had not a clue that anything was going on," said Mr. Hallowich, a Fort Cherry High School history teacher. "We tried to do our homework."

Shortly after they built a two-story home, four gas wells popped up just outside of their property, along with access roads, a gas processing facility and several compressing stations.

The family is now in litigation with the state, drilling operators and processing companies over what they claim is contamination of their water well caused by the drilling and because of noxious fumes that prevent their children from playing outside most days.

They said they can't sell their home because real estate agents aren't interested and many loan companies won't approve mortgages for homes close to gas wells. That includes the U.S. Department of Housing and Urban Development, which won't approve loans for homes within 300 feet from an active or planned drilling site because the drilling poses "potential hazards to housing, including potential fire, explosion, spray and other pollution," according to the agency's website.

Other homeowners have lodged concerns about the disposal of fracking fluids, which contain cancer-causing chemicals, runoff from retention ponds used to hold wastewater from the drilling process, and gas well blowouts, including one that caused an explosion last month in Clearfield County.

Lawmakers heard more concerns Monday during a U.S. Senate hearing on emergency response procedures in the gas well industry that was held in Downtown Pittsburgh.

Jane Chappel of Hopewell, Washington County, told those at the hearing that she feared for her life when the liner of a wastewater pit caught fire near her home.

Concerns also have been raised about the safety of the food chain, after a herd of 28 cattle was quarantined recently in Tioga County when its drinking water was contaminated from a leaking wastewater pond reportedly full of fracking fluid.

The Hallowichs do not oppose drilling but want to tell other property owners about the lessons they're learning the hard way.

"We just want people to be aware of what's going on," Mr. Hallowich said.

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A Burning Debate Over Natural Gas Drilling

EXHIBIT D

By **Armen Keteyian**

The natural gas-producing shale that lies under 34 states is now being seen as a game-changer in helping meet the nation's energy needs for decades to come. But the process of extracting that natural gas, dubbed "fracking," is fueling environmental fears. **CBS News chief investigative correspondent Armen Keteyian has more**

"You can't live like this - it's so stressful every single day "

Homeowner Stephanie Hallowich is like many in western Pennsylvania who have watched their once-pristine neighborhood become an industrial site. Sprawling plants with flares that reach high into the night, noxious smells, trucks, and containment ponds with unknown chemicals are among the complaints of people who live in areas where natural gas companies have descended.

Hallowich believes three natural gas-drilling operations bordering her property turned her well-water black, forcing her to purchase a tank of fresh water every month.

The air? Uncertain.

"I'm very afraid, health-wise, for the kids, just because of the exposure to the water and the constant not-knowing what we're breathing in outside," she said.

The Hallowich home sits near the center of the Marcellus Shale, an energy-rich geological formation stretching from New York to Tennessee.

Three-quarters of Pennsylvania contain vast energy riches buried deep underground in shale formations, representing hundreds of billions of dollars in untold wealth locked up in rock - a potential goldmine for natural gas companies.

"The development of shale gas in the Marcellus and across the country is a very important part of the nation's energy strategy," said Kathryn Klaber, president of the Marcellus Shale Coalition, a natural gas industry group.

Big players are rushing in. Exxon has invested \$30 billion in the Marcellus in recent months. Foreign investors are also swooping in. India's largest company, Reliance, has purchased a large stake. China, Korea, and Britain are investing in gas drilling in the Marcellus shale.

As gas companies rush in to make deals with landowners for the right to drill, the money on the table - signing fees and royalties - is substantial, and hard to argue with in a recession. Hundreds of thousands of dollars in some cases.

In Pennsylvania, 60 gas companies hold 4,504 permits to drill, almost half (1,915) granted.

this year alone

What's driving the drilling rush here, and across the country, are advances in hydraulic fracturing, or "hydro-fracking," a process whereby millions of gallons of water, sand and chemicals are blasted deep underground - about 5,000 feet - forcing cracks in the shale and freeing natural gas for collection

It is at the surface where problems have been reported, like blowouts and spills into ground water

And - as depicted in the HBO documentary "Gasland" - ignition at the kitchen sink

"Gasland" Is "Fracking" Polluting America?

At public meetings, environmental groups and pro-drilling landowners who receive royalties ("It's my house, it's my land, my property, I deserve to be able to frack if that's what I want to do," says one) have squared off over potential health risks and safety

"There's no such thing as zero-impact drilling," says John Hanger, head of Pennsylvania's Department of Environmental Protection. Since 2008 he's doubled the number of state regulators (100 to 205) and inspectors (21 to 45) to oversee the gas industry

Hanger told Keteyian that there is evidence of chemical contaminants in water. "Spills and surface leaks have, in fact, contaminated people's drinking water," he said

Yet nationwide the industry is not required to disclose what potentially toxic chemicals - like hydrochloric acid - are used in the drilling process

A provision of a law proposed by the Bush administration and passed by Congress in 2005 (dubbed by opponents the "Halliburton loophole") stripped the EPA of its ability to regulate "fracking" - leaving the job of regulatory enforcement in the hands of cash-strapped, undermanned state agencies

Since then, drilling companies have been allowed to put millions of gallons of unknown chemicals into the ground without reporting it, making it difficult to link pollution claims to drilling

What environmentalists fear most is widespread contamination to the watershed, on which millions of people depend

"I think the industry's way out of bounds for not disclosing the list of chemicals," Hanger said. "I think the industry is close to insane to allow that issue to become a source of suspicion."

Much like the quality of air and water now surrounding thousands of home sites like Stephanie Hallowich's

Legislation is being proposed in the Senate, sponsored by Sen. Robert Casey, D-Pa, called the Fracturing Responsibility and Awareness of Chemicals (FRAC) Act

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A Dream Dashed by the Rush on Gas



The Hallowich family, Stephanie, Chris, and their children, Alie and Nate, on the land they say they hoped would be their "perfect ten acres." In the background is a gas tank, just a small part of the industry infrastructure that now surrounds them.

Photograph by Scott Goldsmith, National Geographic

Marianne Lavelle

National Geographic News

Published October 17, 2010

EXHIBIT E

SPECIAL REPORT: THE GREAT SHALE GAS RUSH

Exploring the promise and challenge of a new energy supply.

Chris and Stephanie Hallowich say they tried to choose carefully when they were seeking out their dream home in southwestern Pennsylvania. Thinking of their two young children, the high school history teacher and his wife, an accountant, rejected one property when they learned it had once been the site of a strip mine for coal. They settled instead on 10 acres of long-fallow farmland for \$20,000, and began to build.

The Hallowiches' yellow, two-story home in Mount Pleasant Township, about 30 miles southwest of Pittsburgh in Washington County, was completed in November 2007. Nestled on a wooded hill far from the main roadway, it has a swing set and a garden on rolling land where the children could run.

But even as they were building, the bucolic view was being replaced by an industrial panorama. Four natural gas wells, a gas processing plant, a compressor station, buried pipelines, a three-acre plastic-lined holding pond, and a gravel road with heavy truck traffic surround them. Instead of the sound of bird calls and the scent of new-mown grass, the Hallowiches listen to the wheeze of tractor-trailer brakes and breathe diesel fumes—and worse.

"It's ruined our lives. That's what it comes down to," says Chris. "It's ruined our plans that we had for the kids. It's ruined what we thought was our perfect ten acres."

Life in the Midst of a Boom

Thanks mainly to deals struck by the previous owner of their property—the extent of which they say they did not understand at the time of their purchase—the Hallowiches now live on a hillside hub of the Marcellus shale boom.

(See Photos: "A Changed Environment")

Even though they receive some recompense—a monthly royalty check of a few hundred dollars—they say it doesn't compensate for the money they've been spending to have fresh water delivered and stored at their home. They found pollutants in their well water, and although the extent and source are much in dispute, they refuse to drink, cook, or bathe with it. They say they fear that they and their children, now 6 and 9, face health risks from both polluted drinking water and air. And beyond that, they worry that the rural way of life here is being obliterated by an industry that, to them, seems to operate with little oversight or control.

It's hard to dispute that the Hallowich land sits on one of the most active plots in the 95,000-square-mile (246,000-square-kilometer) Marcellus shale, the rock formation extending from West Virginia to New York that the energy industry is tapping, with a combination of technological innovations, to produce huge quantities of natural gas. And it is true that the Hallowiches cope with noisy permanent installations like the compressor station and gas processing plant that have disrupted their lives. But gas producers say the site should be seen as an anomaly, not as a sign of what's to come.

Short-Term Disruptions?

"From a nuisance perspective, I will tell you they have a legitimate concern," says Matt Pitzarella, spokesman for Range Resources, the company that drilled the well that produces gas beneath the Hallowich site. His gas company and others say the bulk of their operations—the well sites themselves—are short-term disruptions and that the land is restored, as the state of Pennsylvania requires, within nine months after drilling is complete.

The water impoundments serve many wells and can be around longer—the one behind the Hallowich house has been there since July 2007—but gas producers also say these man-made, plastic-lined lakes are temporary. The land will be restored when the water holding area is no longer needed. "It is an industrial process and we're honest, open, and transparent about that," says Pitzarella. In most cases, he says, "There are lights, some noises, some road dust, but within a year it's all gone and everything is put back together."

In particular, Range and other companies cite numerous steps they take, such as construction of steel and concrete well casings, to protect groundwater. Still, the Hallowich case is one of a number of bitterly contested water disputes that have erupted since the industry began to spread out across Pennsylvania, one of the few states without any private well regulation. There is no definitive proof where the pollution in the Hallowich well water came from.

A Question of Oversight

Oversight of these disputes, along with other regulation of the shale gas industry here, is the responsibility of the Pennsylvania Department of Environmental Protection (DEP), which has more than doubled its staff to handle the job. DEP has conducted more than 3,400 inspections of more than 1,400 well sites so far this year. It requires reams of paperwork for every drill, water site, and waste discharge, and it mandates site restoration and regrading of any hills that are flattened for well pads.

With more than 2,100 Marcellus wells drilled in Pennsylvania since 2007, DEP has found more than 500 violations of state environmental regulations and more than 1,000 administrative violations, such as failure to keep drilling logs on site. Although DEP does not have an exact figure for fines paid by the Marcellus industry, the agency says its operations were the target of the majority of \$1.8 million in oil and gas industry fines it has levied so far this year. DEP also temporarily curtailed operations of two of the nearly 70 natural gas companies working in the Marcellus. Even industry supporters, who cheer the arrival of a cleaner fuel source to replace coal and oil, say there have been too many accidents and too much mistrust sown by industry secrecy and resistance to further oversight.

"This gas industry has a great product, but how they drill it and how they produce it is going to go a long way to deciding whether the American people embrace it or actually reject it," says Pennsylvania DEP Secretary John Hanger, the state's chief industry regulator.

Safe Process, but Risky Execution?

Both Hanger's office and the gas industry maintain that if the process is done properly, there is no threat to drinking water when chemically treated water and sand are blasted underground to fracture shale to produce gas.

(Related: "Forcing Gas Out of Rock With Water")

The hydraulic fracturing (fracking) fluid, about 4 million gallons (15 million liters) per well, is released into the shale layer at a depth of 4,000 to 8,500 feet (1,220 to 2,590 meters). (Related interactive: "Breaking Fuel From the Rock") That means that there is about a mile or more of rock between the shale and underground water sources used for drinking water. About 1 million Pennsylvania households, nearly 20 percent of residences in the state, draw their water from private wells that are relatively shallow. Wells in the western half of the state, for instance, would likely be drilled to depths of less than 150 feet (46 meters), according to the Pennsylvania Geological Survey.

The potential for contamination of drinking water aquifers is a major concern in the Keystone State, which has more people served by well water than any state but Michigan, according to a 2009 analysis year prepared for the state legislature. The chief bulwark against water pollution is a separating wall—a casing made of tons of steel and cement—built in each gas well not only to protect the environment, but also to ensure the valuable gas doesn't escape.

Hanger says there hasn't been a single confirmed case of frack fluid migrating from the shale layer deep underground to the shallow drinking water supplies in Pennsylvania. However, about 20 to 50 percent of the drilling liquid flows back to the surface, most of it right after the well is completed. And that's when proven trouble can occur.

"It's Not Water of Any Kind"

This "produced water," which includes the frack chemicals, is a super-salty brine, prone to bacterial growth, and potentially contaminated with heavy metals. "It smells like turpentine," says Conrad Dan Volz, director of the Center for Healthy Environments and Communities at the University of Pittsburgh's Graduate School of Public Health, who has been researching the environmental impact. "It's not water of any kind."

State regulations say the frack fluid has to be collected and disposed of as an industrial waste, or it can be treated and reused to drill more wells, a practice pioneered in Pennsylvania within the past year.

(Related: "Forcing Gas Out of Rock With Water") Hanger says the water reuse is in no small measure a result of the DEP's tough stance on wastewater handling.

But in at least 130 cases documented since 2008 by the DEP, drilling wastewater has spilled into creeks and tributaries due to holding pond overflows, pump failures, and other errors. There have been at least two small fish kills. One occurred in October 2009, soon after Range started its program to reuse frack fluid: about 10,500 gallons (40,000 liters/250 barrels) leaked from a broken pipeline joint and killed about 170 creek chubs, blacknose dace, and other small fish, along with some salamanders and frogs in Brush

Run, 30 miles southwest of Pittsburgh. Range says the fish killed collectively weighed about a pound. The company suspects vandalism, because bolts had been removed from the pipe connection. But no perpetrators have been tracked down, and the company was fined \$140,000 for polluting a high-quality waterway. (Range since has switched to using unbolted high-density polyethylene pipeline to transfer its drilling fluid, Pitzarella says.)

In another case, involving East Resources* in north-central Pennsylvania, the state quarantined cattle exposed to wastewater that leaked from a containment pond and killed grass over 1,200 square feet on a farm. State agriculture officials said they acted to prevent contaminated beef from entering the food chain, since the water contained the heavy metal strontium, a substance especially toxic to children and one that lingers long in an animal's system.

In a case that echoed the BP oil spill, although the results certainly weren't as severe, an EOG Resources well blew out on June 3, with natural gas and frack fluid spewing for 16 hours from the gas well on hunting club land inside the Moshannon State Forest in central Pennsylvania. (Related "Parks, Forests Eyed for the Fuel Beneath") There should have been at least two pressure barriers or blowout preventers in the underground piping to prevent contaminated fluid from flowing to the surface, but only one barrier was in place, and it was damaged, the DEP's investigation showed. EOG was hit with the harshest punishment to date by Pennsylvania's shale regulators—a fine of \$353,000 and temporary suspension from drilling.

The Dimock Case

But perhaps the most notorious Pennsylvania contamination case was in the northeastern part of the state, in rural Dimock Township, where natural gas was found in early 2009 to have contaminated the drinking water wells of 14 homes. Investigators were able to do a kind of "fingerprinting" to determine the source, and concluded the gas did not come from the Marcellus shale. But the state DEP contends that faulty well casing set into the ground by Cabot Oil & Gas as it drilled into the deep Marcellus allowed gas to migrate from more shallow geological formations into the groundwater. Dimock's woes were recounted in the award-winning documentary film *Gasland*, forever linking the image of flammable drinking water to the Marcellus shale (even though the man who memorably set fire to his tap water in the film was in Colorado).

Now the dispute in Dimock has escalated, with the state DEP announcing in September that it would seek to recover from Cabot the \$11.8 million cost of building a line to hook the affected homes to a public water system, bypassing the natural gas pollution in their aquifer. Cabot, which originally signed consent orders with the state DEP agreeing to plug three of its wells, to pay at least \$240,000 in fines and to provide water treatment systems for the affected homes, began to publicly and aggressively fight the state. Cabot contends that the natural gas was naturally occurring in the area's water, and on a "Clearing the Air" web site the company has posted affidavits of four longtime residents saying the area's water was always known to be flammable.

The truth of the Dimock situation appears destined to be hashed out in the court system, in addition to

the state DEP's legal action, Cabot documents also say there is a pending suit by residents

But the issue of faulty well construction is a concern for the regulators that goes beyond Dimock. In addition to the Cabot case, the DEP has cited companies nearly 50 times since 2008 for faulty well casing that posed a risk to groundwater. And in September, the DEP requested that one of the largest gas producers, Chesapeake Energy, inspect 171 well casings in northeastern Pennsylvania because natural gas had been found in six private water wells. Also, the state is in the final stages of approving more stringent well cementing and casing requirements for all drillers that Hanger says will be "as strong as any in the country."

"They Need to See Every Spill . . . as Unacceptable"

To oversee the oil and gas industry, the Pennsylvania DEP has enlarged its staff from 88 people to nearly 200, paid for by a significant hike in the cost of drilling permits that increased fee revenue from \$700,000 per year to more than \$10 million. But Hanger says that the gas industry has to do its part. "What we've been absolutely focused on is trying to build a culture of safety, by enforcing real rules," he says. "Because at the end of the day, these companies are the only folks who are there pretty much all the time. We will never have an inspector at every well site every minute of every day.

"So these companies are creating what I describe as the bed in which they will lie with the public," Hanger says. "They need to see every spill and every leak as unacceptable. They need to see every blowout as unacceptable, every gas migration case as completely unacceptable."

Public and Private Battles

Although the industry maintains that the majority of wells have been drilled safely, and that companies have paid for the damage they've done in isolated cases, the industry is clearly on the defensive. No drilling is currently permitted in Pennsylvania's easternmost counties. That's by decision of the Delaware River Basin Commission (DRBC), a federal-multistate compact agency that governs water use in the environmentally sensitive watershed on Pennsylvania's border with New Jersey and New York, which provides water to 17 million people. The DRBC decided on June 14 to halt all natural gas drilling in its region while it writes new environmental rules. In New York, where the Marcellus underlies the Catskill Mountains region that provides New York City with its drinking water—in one of the largest unfiltered water systems in the world—gas drilling has been on hold, in effect, since 2008.

On September 9, the U.S. Environmental Protection Agency asked nine natural gas service companies to submit information on the chemicals they use in hydraulic fracturing—indicating the agency will use its legal authority to compel disclosure of the information if the companies do not comply. EPA is in the midst of a study of the safety of fracking, for which it held packed meetings in Pennsylvania and New York. Leading energy industry analysts believe that in whatever energy bill Congress passes next, there will be both a new federal requirement on frack chemical disclosure and an amendment to assure that fracking is regulated by the federal Safe Drinking Water Act (SDWA). (In its 2005 energy bill, Congress included an exemption from SDWA oversight for the water put into the ground for hydraulic

fracturing—a provision that has come to be known as the “Halliburton loophole” after the oil and gas industry service company that is active in the shale industry)

In addition to increasing official scrutiny, the Marcellus gas industry is embroiled in private battles like the one with the Hallowich family. Ironically, because of a lease signed by the previous owner of their property before they purchased it, the Hallowiches get a royalty check from Range Resources every month, typically between \$300 and \$400, for natural gas produced from under their land. That previous owner would have been due those royalties, and actually tried to back out of the sales agreement with the Hallowiches before closing in 2006. But they took her to court and forced the sale. The Hallowiches said they did not understand the lease was for gas drilling; they say they were told at closing that the lease was for work on a pipeline at the other end of the farm.

Tracking the Source of the Pollution

Now, the Hallowiches are suing Range and others; they say all the royalty money they earn goes to fighting pollution woes. But how much pollution they face, and where it comes from, are subjects steeped in acrimony; successive rounds of water testing by different parties have only made the matter murkier.

Since June 2009, the Hallowiches say, they have spent more than \$5,000 to have water for drinking, cooking, and bathing delivered and stored in a 1,500-gallon (5,700-liter) rented tank in their garage, filled every three weeks, and pumped through the house. State DEP testing conducted in May 2009 showed that their well water had levels of the mineral manganese, a potential neurotoxin, more than three times higher than the state water quality standard. The state DEP said in an August 2009 letter to the Hallowiches that the manganese was a common problem in southwestern Pennsylvania, and could be naturally occurring.

But the Hallowiches had follow-up tests done by two private labs. One of these detected acrylonitrile, a chemical used to make a wide variety of plastics, it can affect the central nervous system, according to the U.S. Agency for Toxic Substances and Disease Registry. The same lab's testing showed trace levels of other toxic chemicals.

The state DEP said in its August 2009 letter to the Hallowiches that the only contaminant in the water that consistently exceeded state standards for drinking water was manganese. The DEP noted that the testing by the other private lab hired by the Hallowiches did not detect any acrylonitrile, and the DEP suggested that the compound could have come from the plastic decorative rock the Hallowiches used over their well.

The Hallowiches, who obtained a letter from the decorative rock company and material data safety sheets stating there was no acrylonitrile in the plastic fixture, are convinced that the chemicals migrated from the natural gas drilling operations. Because acrylonitrile is in so many plastics, they maintain that a probable source is one of the plastic liners—either in the fresh water impoundment or in one of the drilling waste pits buried on site. But Range, which has publicly disclosed its fracking chemicals since this summer, says acrylonitrile is not used in its processes or in its plastic liners.

As in Dimock Township, it appears it will be up to the courts to decide the truth. Complicating matters is the fact that the Hallowiches have no definitive proof on any of the pollution issues. Because they did not test their water for chemicals before drilling began, they have no baseline against which to compare any current readings. In fact, the Hallowiches did not test their water, except for the bacteria, until a year and a half after gas drilling ended. That omission is important, because by Pennsylvania law, an oil or gas company is presumed to be responsible for pollution if a well is drilled within 1,000 feet of a water supply (as is the Range Resources well next door to the Hallowiches) but only if it can be shown that the pollution occurred within six months of drilling.

Because of the liability potential, Range and most other companies routinely do a pre-drilling analysis of water wells within 1,000 feet of a planned oil or gas well. But the Hallowich site fell between the cracks in the law. The family didn't tap their underground water until three months after gas drilling began in July 2007. The Hallowiches said they were never notified or warned to have their water tested, as they believe they should have been. And Stephanie says she was not originally worried about the gas operations. "Just water and sand," she says, is all she understood to be used in the shale gas process.

But as the gas operations encroached, Stephanie contacted groups opposed to natural gas drilling elsewhere in the state, including activists who organized not far from trouble-ridden Dimock. They are the ones, Stephanie says, who urged that the couple do their own water testing for a range of chemicals they say they never would have considered if they had collected a sample before the gas drilling began. After all that she has since learned, from the activists and her own exhaustive research, Stephanie is convinced that drilling is rife with hazards. "It's just like a big chemistry experiment in the ground," she says.

Worries, Too, About the Air

The Hallowiches also have fears about the air, after suffering burning eyes, sore throats and other symptoms when gas was released several times during apparent equipment malfunctions. A windsock now tells the Hallowiches when air is blowing from the direction of the gas facilities, so they can keep the children indoors.

University of Pittsburgh environmental researcher Conrad Dan Volz, whose center, along with the University of Washington, Seattle, is researching the Hallowiches' case as part of a larger study on the industry impact, believes the Marcellus air pollution risk is largely being overlooked. Air pollution is one of Volz's areas of focus in a \$1.8 million, three-year project funded by the Heinz Endowments, which includes the launch of a web site called FracTracker, to be used by citizens, community groups, government agencies, and public health officials. Information, he says, has been as dispersed as the industry. "If any new industry moved into an area and essentially wanted to build a factory, they would have to submit all these environmental plans," he says. "This industry, because it's more diffuse over such a large geographic area, has avoided getting that kind of scrutiny. The [federal] Clean Air Act is very much devised to regulate the largest industrial processors, not necessarily an industrial process spread through an entire region."

Although the individual gas plants do have to obtain Clean Air Act permits, and their emissions are regulated, it is the cumulative impact of numerous facilities that has caused a problem for the Hallowiches.

The Dispute Goes to Court

Pitzarella says that Range has offered to buy the Hallowich property, while leaving them the mineral rights, for around \$200,000. Pitzarella says the offer—which was made verbally, not in writing—was based on a real estate agent's assessment of the fair market value of the property. But the Hallowiches, who have put their house on the market for close to \$500,000, say they never received either a verbal or written offer from Range, although the company invited them to talk. They say that Range asked what they wanted; they replied that they wanted the company to buy their house, reimburse them for water, pay their legal fees, and create an escrow account for medical monitoring for the family.

The two sides disagree on exactly when negotiations broke down, but the Hallowiches say they did not want to sign away their right to sue because their problems, they say, are bigger than polluted well water and go beyond their issues with Range. Stephanie Hallowich points out that their lives also have been disrupted by two big facilities built by other companies the year after they moved into their home: a gas compressor station 580 yards (530 meters) away, operated by MarkWest Energy Partners of Denver and a gas conditioning facility 340 yards (310 meters) away operated by a subsidiary of Tulsa, Oklahoma's Williams Company. "Would you want to buy my house?" asks Stephanie. "Our house and property are worth nothing. Even if we found somebody who'd be willing to buy it, there's probably not a bank that would finance it."

So the Hallowiches have filed a notice of intent to sue Range, MarkWest, and Williams Company, as well as the Pennsylvania DEP, which they blame for failing to enforce the law. DEP spokesman John Repetz says that the agency's investigation into the Hallowich situation is continuing. But he said the agency could say little more about the case while it was in litigation. MarkWest and Williams also said they did not comment on matters in litigation.

Range's Pitzarella says that because Pennsylvania never has required homeowners to test their private drinking water wells, the potential is great for clashes between residents and the new gas industry. In regions where chemicals and minerals entered aquifers long ago from both farming and coal mining, Pitzarella says, the gas industry is being blamed unfairly for pollutants that were in the groundwater long before its arrival.

"Oftentimes, when we do our pre-drilling analysis, we'll find there are people that have bacteria, agricultural runoff, and sediment in their water supplies," he says. "We've had some landowners that have water wells drilled into old mine pools that they've been drinking out of for years. It's a problem in Pennsylvania."

'An Absolutely Unique Situation'

As for the Hallowich property, Pitzarella says, the conflict escalated because it involved one of the first sites ever drilled in the Marcellus shale—three of the wells there were experimental. He says in both the siting of facilities and communication with residents, his company has worked harder since then to be a good neighbor.

“They are in an absolutely unique situation,” he says. “Not only will you not see it in the future, you won’t see it now, and you won’t see it since then.” He points to the more than 2,100 Marcellus wells drilled in Pennsylvania so far and the thousands of landowners across the state who have signed leases allowing gas companies to produce on or under their properties. “If this were the norm, there would be tens of thousands of people saying, ‘It’s happening everywhere. I can’t get away from it.’”

Pitzarella says he can show many Range sites in southwestern Pennsylvania where there is little remaining sign of any drilling operation—just a low, green pipe and valve structure, commonly called a “Christmas tree,” fenced off from surrounding land. There also are numerous happy landowners among the hundreds of Range leaseholders in Washington County.

Some Embrace the Industry

Typical is Beverly Romanetti, whose family lives just over a mile from the Hallowich place. “We have not had a problem at all,” she says about the gas well, which takes up three to five acres of their approximately 150-acre cattle farm. “They are very polite, and try to please,” she says of the gas company.

“It definitely has changed our way of living in this county,” Romanetti concedes. “We’re used to no traffic, and now you have the big trucks.” But, she says, “what they have given back to every inch of this county is amazing.” Romanetti mentions the lease money that has allowed farmers to stay on their land and not sell or subdivide, the donations that the companies have made to local charities and the student agricultural group, 4-H, and the road repairs that Range has made to make up for the damage done by its trucks. “People should embrace them,” she says.

(Related: “A Drive for Jobs Through Energy”)

In July, Range, which was the first company to drill in the Marcellus, also became the first shale company to voluntarily disclose the chemicals it uses at each frack site, and as of late last year it has aimed to reuse 100 percent of its drilling wastewater. “This is far too important and too great of an opportunity to not get it right,” Pitzarella says. “I’ll be the first to tell you that we’re not perfect and we may make some mistakes—poor communication with a landowner, choosing a bad location for an access road, things like that. But if we make a mistake we own up to it and make it right.”

Evidence on the dispute with the Hallowiches is now being gathered in Washington County court. The Hallowiches are giving up their dream of ten acres and a home in the country for now. They are planning to rent a place in the Pittsburgh suburbs.

** Most of East Resources assets have since been acquired by Royal Dutch Shell, which is sponsor of the*

National Geographic initiative The Great Energy Challenge. This report is produced as a part of that initiative, in which National Geographic maintains autonomy over content

*Read the entire special report, with photos, interactive map and illustration of the process, at **THE GREAT SHALE GAS RUSH.***

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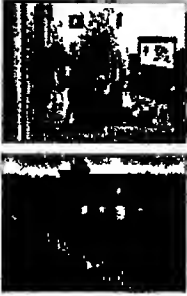


Photograph by Scott Goldsmith, National Geographic

Chris and Stephanie Hallowich bought ten acres of long-fallow farmland in southwestern Pennsylvania for \$20,000, and began to build what they thought would be their dream home

The yellow, two-story home in Mount Pleasant Township was completed in November 2007—and soon surrounded by four natural gas wells, a gas processing plant, a compressor station, pipelines, a three-acre water impoundment, and a gravel access road with heavy truck traffic. Now they fear that their well water is contaminated and their children are breathing pollutants, all stemming from the industry's operations. Over the past year, they estimate they have had to pay \$5,000 to have water delivered and stored in a tank and pumped throughout the house for cooking, bathing, and drinking. "It's ruined our lives. That's what it comes down to," says Chris. "It's ruined our plans that we had for the kids. It's ruined what we thought was our perfect ten acres."

EXHIBIT F



Photograph by Scott Goldsmith, National Geographic

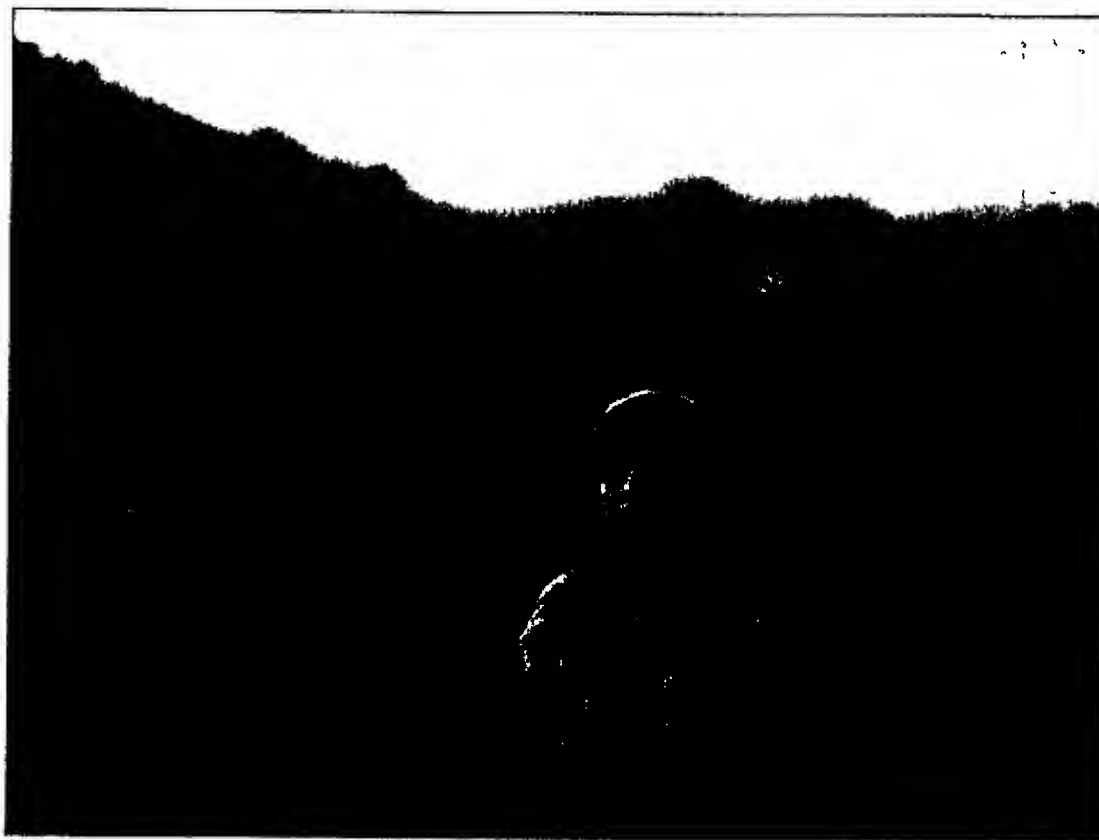
Nestled on a wooded hill far from the main road, the Hallowich home has a swing set and a garden on rolling land where they thought their children would be able to run

But even as they were building, their bucolic view was being replaced by an industrial panorama. Instead of the sound of bird calls and the scent of new-mown grass, the Hallowiches listen to the wheeze of tractor-trailer brakes and breathe diesel fumes and worse.

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Photograph by Scott Goldsmith, National Geographic

Ali Hallowich stretches her arms out to catch a lightning bug on land near her home in Mount Pleasant Township, Pennsylvania, which is located alongside gas drilling and processing operations in the Marcellus shale

The Hallowich family once considered the bucolic area a perfect site for their dream home, but now they are so worried about polluted water and air that they simply want to sell their house and move. Both the state's chief industry regulator and the gas industry maintain that if it's done properly, there's no threat to drinking water when chemically treated water and sand are blasted underground to fracture shale to produce gas. But accidents and industry resistance to oversight continue to raise concerns.

(0)



Photograph by Scott Goldsmith, National Geographic

The Hallowiches gather in front of the television after dinner.

The family sees little resolution of its troubles, except through the legal system. Range Resources says it made a verbal offer to buy the Hallowich property, while leaving them the mineral rights, for about \$200,000. But the Hallowiches, who have put their house on the market for close to \$500,000, say they never received a verbal or written offer from Range. They say that although the company invited them to talk, those negotiations broke down. They wanted not only reimbursement for their home, water and legal fees, but also an escrow account for medical monitoring for the family. The couple say they did not want to sign away their right to sue, since their problems are bigger than polluted well water. "Do you want to buy my house?" asks Stephanie. "Our house and property are worth nothing. Even if we found somebody who'd be willing to buy it, there's probably not a bank that would finance it."



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ATTORNEYS AT LAW

Peter M. Villari, Esq.
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Hon. Paul Pozonsky
Washington County Court of Common Pleas
1 South Main Street, Suite 1004
Washington, PA 15301

August 31, 2011

RE: **Hollowich v. Williams Gas/Laurel Mountain, et. al.,**
Docket No. 2010-3954

Dear Judge Pozonsky,

Plaintiffs' counsel is in receipt of PG Publishing Company's Petition to Intervene and Motion to Unseal Record in the above captioned matter, filed on August 31, 2011, including notice of hearing before your Honor on September 6, 2011 at 9:15 a.m. Please be advised that Plaintiffs are taking no position and will therefore defer to the Court's discretion regarding said Petition and Motion.

Very truly yours,

Peter M. Villari, Esq.

cc: Frederick N. Frank, Esq.
Gail A. Meyers, Esq.
Erin Windell McDowell, Esq.
Kathy K. Condo, Esq.
James C. Swetz, Esq.

EXHIBIT G



GOVERNOR'S OFFICE OF GENERAL COUNSEL

September 2, 2011

Southwest Regional Counsel

412-442-4262

Fax: 412-442-4267

Via Facsimile and First Class Mail

The Honorable Paul Pozonsky
Washington County Court of Common Pleas
1 South Main Street, Suite 1004
Washington, PA 15301

Re: *Stephanie Hallowich and Chris Hallowich v Range Resources Corporation, et al*
Docket No. 10-3954

Dear Judge Pozonsky

I am writing to advise you that the Department has been notified that on Tuesday, September 6, 2011, P.G. Publishing Company intends to present a Petition to Intervene and Motion to Unseal Record in the above referenced matter. The Department neither opposes nor supports P.G. Publishing Company's Petition to Intervene and Motion to Unseal Record. Therefore, the Department does not intend to attend the presentation of the Motion before Motions Court on September 6, 2011

Sincerely,

Gail A. Myers
Assistant Counsel

cc Frederick N. Frank, Esquire (via facsimile)
Kathy K. Condo, Esquire (via facsimile)
Erin W. McDowell, Esquire (via facsimile)
Peter Villari, Esquire (via facsimile)
Richard Hosking, Esquire (via facsimile)
Alan J. Eichler, OGM Pittsburgh
Jack Crook, OGM Pittsburgh

EXHIBIT H



IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND CHRIS
HALLOWICH, H/W,

Plaintiffs,

v

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, LP, MARKWEST ENERGY
GROUP, LLC,

Defendants

Docket No 2010-3954

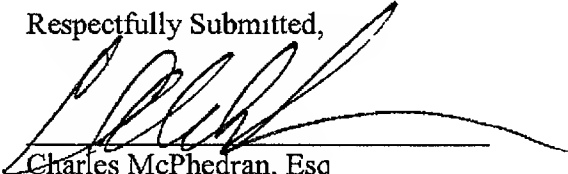
NOTICE OF ENTRY OF APPEARANCE

Please enter the appearance of Charles McPhedran in the above-designated matter
counsel of record on behalf of *Amici Curiae* Philadelphia Physicians for Social Responsibility,
Physicians, Scientists, and Engineers for Healthy Energy, Dr Bernard D Goldstein, Dr Walter
Tsou, Dr Jerome A. Paulson, Dr William Rom, Dr Sandra Steingraber, Dr Simona Perry, Dr
Robert Oswald; Dr Michelle Bamberger, Kathryn Vennie, and Earthworks

1/7/2013

Date

Respectfully Submitted,


Charles McPhedran, Esq

Pa Bar Id No 60123

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FILED
13 JAN -8 AM 10:25
FULTON COUNTY
WASHINGTON CO. PA

CERTIFICATE OF SERVICE

I, Charles McPhedran, Esq., hereby certify that a true and correct copy of the foregoing Notice of Entry of Appearance was served upon the following, this 7th day of January, 2013, via Federal Express priority next-day delivery

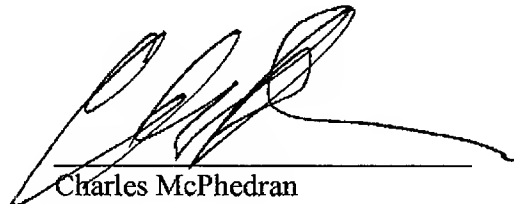
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Charles McPhedran

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND CHRIS
HALLOWICH, H/W,

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v

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, LP, MARKWEST ENERGY
GROUP, LLC,

Defendants

Docket No 2010-3954

**MOTION FOR LEAVE TO FILE
AMICI CURIAE BRIEF**

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PROCTORY
WASHINGTON, PA.

Admitted in New York, not admitted in Pennsylvania

Admitted in California and Washington, not admitted in Pennsylvania

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WILLIAMS GAS/LAUREL MOUNTAIN)	
MIDSTREAM, MARKWEST ENERGY)	
PARTNERS, LP, MARKWEST ENERGY)	
GROUP, LLC,)	
)	
Defendants)	
)	

NOTICE OF PRESENTATION

TO

Erin W McDowell
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Pittsburgh, PA 15219

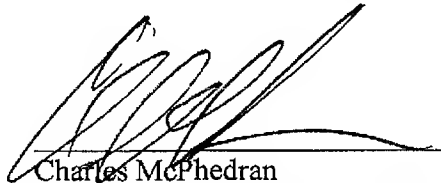
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KINDLY TAKE NOTICE that the within **Motion for Leave to File an *Amici Curiae***
Brief will be presented to the Honorable Debbie O'Dell Seneca, Judge of the Washington
County Court of Common Pleas, on the 18th day of January, 2013, at 9 15 A M , in courtroom
no 1, Washington County Courthouse, 1 South Main Street, Washington, PA 15301
Dated January 7, 2013



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PARTNERS, LP, MARKWEST ENERGY)	
GROUP, LLC,)	
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Defendants)	
)	

MOTION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF

Proposed *amici curiae* Philadelphia Physicians for Social Responsibility, Physicians, Scientists, and Engineers for Healthy Energy, Dr Bernard D Goldstem, Dr Walter Tsou, Dr Jerome A Paulson, Dr William Rom, Dr Sandra Steingraber, Dr Simona Perry, Dr Robert Oswald, Dr Michelle Bamberger, Kathryn Vennie, and Earthworks (collectively, '*Amici*'), by and through the undersigned counsel, hereby move this Honorable Court for an order granting leave to file an *amici curiae* brief in support of the motions of PG Publishing Company d/b/a The Pittsburgh Post-Gazette and the Observer Publishing Company d/b/a Observer-Reporter (collectively, the "Newspapers") to intervene and unseal the record In support of their motion, *Amici* state as follows

1 On May 27, 2010, Stephanie and Chris Hallowich, on behalf of themselves and their two minor children, filed a lawsuit alleging that the defendants' natural gas drilling and processing had polluted the air and water, harmed the health of the Hallowich family, and reduced the value of their property The parties later reached a settlement agreement, of which

they sought this Court's approval, pursuant to Pennsylvania Rule of Civil Procedure 2039 and Washington County Local Rule of Court 2039.1 On August 23, 2011, Judge Pozonsky signed an order approving the settlement agreement and sealing the entire record. The Newspapers filed petitions to intervene and a joint motion to unseal the record. The Court denied the petitions on the grounds that they were not timely filed.

2 The Newspapers appealed the decision to the Superior Court. On April 27, 2012, *Amici* filed an *amici curiae* brief in that Court in support of the Newspapers, to highlight the public health interest in unsealing the court record in this case. The Superior Court reversed the decision below and remanded the case for a ruling on the merits of the petitions to intervene and the joint motion to unseal the record. A hearing before this Court on the pending petitions and motion is scheduled for January 18, 2013.

3 *Amici* are health care professionals, scientists, and organizations that have professional and personal interests in public access to information related to the effects of natural gas development on human health. Some *Amici* have produced independent research on the natural gas industry, while other *Amici* treat patients who may be exposed to chemicals released from natural gas operations. *Amici* share the belief that greater disclosure of information regarding natural gas operations will assist in understanding any potential health effects from gas development. *Amici* also seek reaffirmation by this Court of the high burden that must be carried to rebut the longstanding presumption that judicial proceedings and court records are open to the public, especially in cases implicating the public interest in protecting human health and safety.

4 Now that this Court is poised to rule on the merits of the motions to intervene and unseal the record, *Amici* seek leave of this Court to submit the accompanying brief. The *amici curiae* brief will assist the Court in understanding the scientific and public health interests at

stake in the motions to unseal the record. Opening the record so that the public may have access to information relating to the health impacts of natural gas development is relevant to the pending motions to unseal the record because the legal standard for disposing of a motion to unseal the record requires that this Court balance the interests in open access against the interest in secrecy. See *Storms v O'Malley*, 2001 Pa Super 184, 779 A 2d 548, 569 (2001). Because there is a strong public interest in access to any information in the record that may be relevant to the public health impacts of natural gas operations and in upholding the legal principle that court records cannot be sealed based merely on defendants' preference for secrecy, *Amici* contend in their brief that the public interest lies in unsealing the record.

5 Counsel for *Amici* are not aware of any Pennsylvania Rule of Civil Procedure governing the submission of an *amicus curiae* brief in the Court of Common Pleas. "However, several Pennsylvania appellate court decisions have noted that *amicus curiae* briefs were filed with the trial court and have not criticized this action." *Milkman v American Travelers Life Ins Co*, No. 3775, 2001 WL 1807376, at 4 n 2 (Pa Ct Com Pl Philadelphia Cnty Nov 26, 2001) (citing *Altshuler v Pa Liquor Control Bd*, 729 A 2d 1272, 1275 n 5 (Pa Commw Ct 1999), *Cherry Valley Assocs v Stroud Twp Bd of Supervisors*, 109 Pa Commw 246, 250, 530 A 2d 1039, 1040 (1987), *Newberg v Bd of Public Educ*, 330 Pa Super 65, 69, 478 A 2d 1352, 1354 (1984), *In re Petition to Amend Home Rule Charter of City of Pittsburgh*, 69 Pa Commw 292, 294, 450 A 2d 802, 802 (1982)). In light of the decisions cited by *Milkman*, this Court has authority to permit the filing of this *amicus curiae* brief.

6 Additionally, *Amici* are filing this motion in compliance with the schedule set for the Newspapers' submission of supplemental briefs. Thus, granting this motion will not delay briefing or oral argument.

7 Counsel for *Amici* have conferred with counsel for the Defendants and counsel for the Newspapers with respect to this motion. Counsel for the Newspapers consent to the filing of the proposed *amici curiae* brief. Counsel for Defendants MarkWest and Williams have indicated that they will oppose *Amici*'s motion, while counsel for Defendant Range Resources Corp. has not responded to messages inquiring as to the position of Range Resources Corp. with respect to this motion.

8 *Amici* request that their motion for leave to file an *amici curiae* brief be decided on the papers, without oral argument. Should this Court wish to hear argument on the motion, *Amici* have submitted a notice of presentation and will file a motion for the admission *pro hac vice* of Deborah Goldberg, Esq., to this Court, so that she may appear on behalf of *Amici* at the hearing scheduled for January 18, 2013.

CONCLUSION

9 For the reasons set forth above, *Amici* respectfully request this Court's leave to file the attached brief in support of the Newspapers' motion to unseal the court record in this case

Dated January 7, 2013



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MIDSTREAM, MARKWEST ENERGY)	
PARTNERS, LP, MARKWEST ENERGY)	
GROUP, LLC,)	
)	
Defendants)	
)	

ORDER OF COURT

AND NOW, on this _____ day of _____, 2013, upon consideration of the Motion for Leave to File an *Amici Curiae* Brief and the accompanying Brief of *Amici Curiae*, it is hereby ordered, adjudged, and decreed that the motion is GRANTED, and the proposed Brief of *Amici Curiae* is hereby ACCEPTED FOR FILING with this Court

BY THE COURT

_____, J

CERTIFICATE OF SERVICE

I, Charles McPhedran, Esq., hereby certify that a true and correct copy of the foregoing Notice of Presentation, Motion for Leave to File *Amici Curiae* Brief, and proposed Order granting the Motion were served upon the following, this 7th day of January, 2013, via Federal Express priority next-day delivery


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IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
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PARTNERS, LP, MARKWEST ENERGY
GROUP, LLC,

Defendants

Docket No 2010-3954

FILED
13 JAN -8 AM 10:25
PROCTOR & KERRY
WASHINGTON CO. PA.

**BRIEF OF *AMICI CURIAE* PHILADELPHIA PHYSICIANS FOR SOCIAL
RESPONSIBILITY; PHYSICIANS, SCIENTISTS, AND ENGINEERS FOR HEALTHY
ENERGY; DR. BERNARD D. GOLDSTEIN; DR. WALTER TSOU; DR. JEROME A.
PAULSON; DR. WILLIAM ROM; DR. SANDRA STEINGRABER; DR. SIMONA
PERRY; DR. ROBERT OSWALD; DR. MICHELLE BAMBERGER; KATHRYN
VENNIE; AND EARTHWORKS IN SUPPORT OF PROPOSED INTERVENORS**

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PRELIMINARY STATEMENT

When Stephanie and Chris Hallowich moved their family to a farm in Mount Pleasant, they thought they had found their dream home. Instead, their home was soon surrounded by the expanding natural gas industry, as companies built wells on their property and gas processing facilities nearby. The health of the Hallowich parents and children quickly deteriorated.

The Hallowich family tried to get the attention of state regulators, spoke with media, and communicated with the gas companies. Yet the gas operations continued, and the family's health declined. The Hallowich family had no recourse but to file a lawsuit, settle, and abandon their property. The very companies that essentially forced the Hallowich family from their home obtained an order closing the court proceeding and sealing the record, depriving the public of any information in the record that could help to protect other similarly situated families.¹

The circumstances that gave rise to the Hallowich case are occurring throughout Pennsylvania and other states. As shale gas development expands around the country, more people are exposed to unconventional gas operations that can contaminate drinking water and pollute the air, with serious health effects. To understand and prevent these health risks, physicians and public health professionals need more information. Unfortunately, at the very moment that more people are being exposed to gas operations that can potentially cause health problems, and at the very moment that the medical community insists that it needs more information, the gas industry routinely impedes the collection and dissemination of information relevant to the industry's impact on public health.

¹ The Court of Common Pleas (Pozonsky, J., presiding) closed the proceedings in this case to the public, approved a confidential settlement, and entered an order sealing the record in August 2011.

Governing precedents do not support sealing the court record and precluding public access to information that may relate to the health effects of gas operations. The gas companies' interest in secrecy must yield to the greater social good of disclosing information relevant to public health and safety. Moreover, no Pennsylvania court has ever held that entire court records may be sealed based on nothing more than the interest in using confidentiality to promote settlements. Accordingly, *Amici* urge this Court to grant the newspapers' joint motion to unseal the record.²

INTERESTS OF PROPOSED *AMICI CURIAE*

The proposed *amici curiae* are Philadelphia Physicians for Social Responsibility, Physicians, Scientists, and Engineers for Healthy Energy, Dr. Bernard D. Goldstein, Dr. Walter Tsou, Dr. Jerome A. Paulson, Dr. William Rom, Dr. Sandra Steingraber, Dr. Simona Perry, Dr. Robert Oswald, Dr. Michelle Bamberger, Kathryn Vennie, and Earthworks (collectively, "*Amici*"). Their individual statements of interest are attached as Exhibit A. *Amici* are healthcare professionals, research scientists, engineers, and organizations actively working to protect public health from the impacts of oil and gas development. Some *Amici* have extensive experience producing independent research on the natural gas industry, other *Amici* are healthcare providers and may treat patients concerned about possible health effects from natural gas operations. Despite their different professions, *Amici* share the belief that each of their fields needs more

² *Amici* will not address the newspapers' motion to intervene, except to note that both Pennsylvania and Third Circuit courts have allowed media companies to intervene to unseal a record when such a motion was filed after the sealing of the record and dismissal of the case. See *Beaver v. McColgan*, 11 Pa. D. & C. 4th 97, 98 (Ct. Com. Pl. Columbia C'ty. 1990) (granting a petition to intervene filed four weeks after the court approved a settlement agreement and approved a petition to seal the court record), see also *Pansy v. Borough of Stroudsburg*, 23 F.3d 772, 780 (3d Cir. 1994) ("In the instant case, there was only a six and one-half month delay between the time of settlement and the motion for intervention. This relatively short delay, in itself, leads us to the conclusion that intervention should be permitted.")

information on the natural gas industry in order to properly assess the impacts of natural gas development

Amici are concerned about the use of various laws and litigation tactics to impede the development of information on the industry. To counteract this trend, *Amici* support greater disclosure of information regarding natural gas operations and their health impacts. Unsealing the record in this case would both improve transparency about gas operations and their health effects and confirm the high standard that must be met to rebut the presumption that judicial proceedings and court records are open to the public. *Amici* therefore urge this Court to grant the newspapers' joint motion to unseal the record.

I Background

A. The Hallowich Family

Stephanie and Chris Hallowich built what they thought would be their dream home in Mount Pleasant Township.³ They soon found themselves caught in the middle of Marcellus shale gas development, as companies drilled wells on their property and operated gas processing facilities nearby.⁴ The health of both the Hallowich parents and children deteriorated as they began suffering a range of symptoms, including headaches, nosebleeds, burning eyes, and sore throats.⁵ After trying unsuccessfully to resolve their problems by contacting the natural gas companies and state regulators, the Hallowich family had no other recourse than to file a lawsuit,

³ Marianne Lavelle, *A Dream Dashed By the Rush on Gas*, Nat'l Geographic Daily News, Oct 17, 2010, at 2.

⁴ When Stephanie and Chris Hallowich moved onto the property, they did not understand that the prior owner had leased the mineral rights. *Id.*

⁵ Janelle Hall, *Explosion Reports Send Crews to Washington Co Gas Well Site Range Resources Says Smoke Spotted at Compressor Station*, WTAE.com Pittsburgh (Mar 1, 2011), available at <http://www.wtae.com/r-video/27044037/detail.html>, Lavelle, *supra* note 3, at 8.

settle, and leave their property behind. The very companies that made their property unlivable now seek to deny the public access to records that could help other similarly situated families

B. Like the Hollowich Family, Many People in Pennsylvania and throughout the Nation Are Exposed to Shale Gas Development.

The Marcellus shale deposit, estimated to be one of the largest known deposits of natural gas in the world, lies underneath Pennsylvania and other Northeastern states⁶. Development of the Marcellus shale has increased exponentially in the last several years, especially in southwestern Pennsylvania, where the Hollowich family lived during the time periods relevant to this case. According to the United States Energy Information Administration, "Between 2009 and 2011, Pennsylvania's natural gas production more than quadrupled due to expanded horizontal drilling combined with hydraulic fracturing."⁷ The boom in drilling for unconventional gas in Pennsylvania is part of a national trend: in 2001, unconventional gas was less than 2% of total domestic natural gas production, but by 2011, unconventional gas made up at least 30% of total domestic gas production.⁸

⁶ Timothy Considine *et al*, Pa. State Univ. College of Earth and Mineral Sciences, Dept. of Energy and Mineral Engineering, *An Emerging Giant: Prospects and Economic Impacts of Developing the Marcellus Shale Natural Gas Play 2* (2009), available at <http://www.allegHENYconference.org/PDFs/PELMisc/PSUStudyMarcellusShale072409.pdf>

⁷ U.S. Energy Information Administration, *Horizontal Drilling Boosts Pennsylvania's Natural Gas Production* (May 23, 2012), available at <http://www.eia.gov/todayinenergy/detail.cfm?id=6390>. Similarly, a Pennsylvania State University study concluded that, between 2008 and 2010, the number of horizontal wells drilled increased almost 700% and the number of wells in production increased almost 300% in Pennsylvania. See Timothy Considine *et al*, Pa. State Univ. College of Earth and Mineral Sciences, Dept. of Energy and Mineral Engineering, *The Pennsylvania Marcellus Natural Gas Industry: Status, Economic Impacts and Future Potential* 13 (2011), available at <http://marcelluscoalition.org/wp-content/uploads/2011/07/Final-2011-PA-Marcellus-Economic-Impacts.pdf>

⁸ Secretary of Energy Advisory Board, Shale Gas Production Subcommittee, *90-Day Report 6* (Aug. 18, 2011) [hereinafter SGPS 90-Day Report], available at http://www.shalegas.energy.gov/resources/081811_90_day_report_final.pdf

C. As the Hallowich Family Experienced, Shale Gas Development Poses Serious Health Risks.

Shale gas development can contaminate the water people drink and the air they breathe, compromising their health. This air and water pollution can occur at different stages in gas development, which we summarize here. To extract gas from the Marcellus shale, companies typically use a combination of horizontal drilling and hydraulic fracturing.⁹ After the well has been drilled, the hydraulic fracturing stage involves sending millions of gallons of water, mixed with sand and chemicals, into the well at high pressure, this creates and expands fissures in the shale and allows gas to flow into the well.¹⁰ During the early life of the well, a percentage of the fracturing fluids returns to the surface along with materials in the formation.¹¹ Throughout the process, companies use heavy machinery and fleets of trucks to create access roads, clear land, and transport materials.¹² Each one of these stages in shale gas development poses risks to human health from air and water pollution.

1. Water Pollution

Shale gas operations can damage people's health by contaminating their drinking water. Unconventional gas development poses a risk of introducing three kinds of contaminants into water supplies: methane, the chemicals used in drilling and fracturing fluids, and substances

⁹ Pennsylvania Department of Environmental Protection, *Hydraulic Fracturing Overview 1-2*, <http://files.dep.state.pa.us/OilGas/BOGM/BOGMPortalFiles/MarcellusShale/DEP%20Fracing%20overview.pdf>

¹⁰ Ground Water Protection Council, *Modern Shale Gas Development in the United States: A Primer ES-4* (2009), available at http://www.netl.doe.gov/technologies/oil-gas/publications/epreports/shale_gas_primer_2009.pdf

¹¹ U.S. Environmental Protection Agency, *Hydraulic Fracturing Background Information*, http://water.epa.gov/type/groundwater/uic/class2/hydraulicfracturing/wells_hydrowhat.cfm (last visited Apr. 25, 2012)

¹² PennEnvironment, *In the Shadow of the Marcellus Boom* 14, 25 (2011), <http://www.pennenvironment.org/reports/pae/shadow-marcellus-boom>

present in underground formations. At elevated levels, methane in drinking water poses an obvious safety risk of explosions and fires. Some of the chemicals used in drilling and fracturing fluids can impair the nervous system, immune system, kidney, and cardiovascular system, and some are capable of causing cancer.¹³ Many substances that occur naturally in shale formations, and are brought to the surface after fracturing, are toxic to people and animals, and some are radioactive.

Both the drilling and fracturing process can cause methane to migrate into water supplies.¹⁴ For example, the Pennsylvania Department of Environmental Protection sent notices of violation to a gas company for allowing gas to escape from the well and migrate to drinking water wells in Dimock¹⁵ and Lenox Township.¹⁶ Additionally, there is evidence that fracturing fluids, which can contain toxic ingredients,¹⁷ can migrate to water supplies.¹⁸

¹³ Theo Colborn, *et al*, *Natural Gas Operations from a Public Health Perspective*, 17 *Human and Ecological Risk Assessment: An International Journal* 1039, 1039-56 (2011).

¹⁴ See Stephen G. Osborne, *et al*, *Methane Contamination of Drinking Water Accompanying Gas Well Drilling and Hydraulic Fracturing*, 108 *Proceedings of the National Academy of Sciences* 8172, 8172-76 (2011), *SGPS Second 90-Day Report*, *supra* note 8, at 20.

¹⁵ For a summary of the February 27, 2009, and May 13, 2009, Notices of Violation, see Consent Order and Agreement between Pennsylvania Department of Environmental Protection and Cabot Oil and Gas Corporation (Nov. 4, 2009).

¹⁶ Letter from Mark Cooley, Pennsylvania Department of Environmental Protection to Phil Stalnaker, Cabot Oil and Gas (Sept. 19, 2011).

¹⁷ See Colborn, *supra* note 13.

¹⁸ Dominic C. DiGiulio, *et al*, U.S. Environmental Protection Agency, *Draft, Investigation of Groundwater Contamination near Pavillion, Wyoming*, 32 (2011), available at http://www.epa.gov/region8/superfund/wy/pavillion/EPA_ReportOnPavillion_Dec-8-2011.pdf. The exact mechanism by which the fluids migrated to drinking water supplies has not been finally determined.

After the well has been drilled and the fracturing has been completed, fluids return to the surface – fracturing a typical Marcellus shale well requires several million gallons of water¹⁹ During the early life of the well, some of the residual fracturing fluids return to the surface together with materials mobilized from the formation (“flowback water”) Later, during production, water displaced from the formation returns to the surface (“produced water”) Produced water can contain brine, gases, salts, trace metals, and naturally occurring radioactive elements²⁰ Frequently, the returned fluids, which can include both flowback and produced water, are stored aboveground in lined ponds The ponds can leak, as happened in Hopewell Township²¹ If the returned water is not recycled, it must be disposed of, and improper disposal of returned water was associated with elevated levels of salts and other dissolved solids in waterways in western Pennsylvania used for drinking water Prior to a request from the Pennsylvania Department of Environmental Protection to stop doing so, companies were routinely sending returned water to sewage treatment facilities that were not designed to handle it²² Spills can occur at many stages of development, from the mixing of fracturing fluids to the transportation of wastewater, companies have been fined for spilling both fracturing fluids as

¹⁹ FracFocus, *Hydraulic Fracturing Water Usage*, <http://fracfocus.org/water-protection/hydraulic-fracturing-usage>, see also FracFocus, *Hydraulic Fracturing Fluid Product Component Information Disclosure*, available at <http://www.hydraulicfracturingdisclosure.org/fracfocusfind/> (enter the API number in the search box API number 37-125-24319 (3.7 million gallons used), API number 37-125-24189 (4.4 million gallons used))

²⁰ SGPS 90-Day Report, *supra* note 8, at 21

²¹ Janice Crompton, *Residents Reported Gas Odors Before Explosion*, Pittsburgh Post-Gazette (Apr. 1, 2010), available at <http://www.post-gazette.com/stories/local/washington/residents-reported-gas-odors-before-explosion-240501/>

²² Press Release, Pennsylvania Department of Environmental Protection, DEP Calls on Natural Gas Drillers to Stop Giving Treatment Facilities Wastewater (Apr. 19, 2011), available at <http://www.portal.state.pa.us/portal/server.pt/community/newsroom/14287?id=17071&typeid=1>

well as returned fluids into creeks and wetlands in Susquehanna, Bradford, and Clearfield Counties²³

2. Air Pollution

Unconventional gas development can harm health through air pollution²⁴ The primary air pollutants emitted from unconventional natural gas operations are organic compounds, such as methane and ethane, volatile organic compounds ("VOCs"), and organic hazardous air pollutants, such as benzene, a known carcinogen²⁵ VOCs can react in the atmosphere to form ozone and particulate matter, which can cause respiratory impairments, including asthma, heart attacks, bronchitis, and premature death²⁶ Unconventional gas drilling has contributed to levels of ozone that greatly exceed air quality standards, most notably in the Dallas-Fort Worth area, Colorado, and Sublette County in Wyoming²⁷

²³ Press Release, Pennsylvania Department of Environmental Protection, DEP Fines Cabot Oil and Gas Corp \$56,650 for Susquehanna County Spills (Oct 22, 2009), *available at* <http://www.portal.state.pa.us/portal/server.pt/community/newsroom/14287?id=2399&typeid=1>, Press Release, Pennsylvania Department of Environmental Protection, Press Release, DEP Fines Talisman Energy USA for Bradford County Drilling Wastewater Spill, Polluting Nearby Water Resource (Aug 2, 2010), *available at* <http://www.portal.state.pa.us/portal/server.pt/community/newsroom/14287?id=13249&typeid=1>, Tom Barnes, *2 Drillers Fined for Pennsylvania Gas Well Blowout*, Pittsburgh Post-Gazette (July 14, 2010), <http://www.post-gazette.com/stories/local/state/2-drillers-fined-for-pennsylvania-gas-well-blowout-255250/>

²⁴ In recognition of the significant air emissions from natural gas operations, EPA recently finalized several new rules aimed at reducing harmful air pollution from conventional and unconventional gas development. See 77 Fed. Reg. 49,490 (Aug 16, 2012).

²⁵ See 76 Fed. Reg. 52,738, 52,745 (Aug 23, 2011), U.S. Environmental Protection Agency, *Addressing Air Emissions from the Oil and Natural Gas Industry: Overview of EPA's Proposed New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants* 5 (2011).

²⁶ 76 Fed. Reg. at 52,791 (citing various studies).

²⁷ Al Armendariz, *Emissions from Natural Gas Production in the Barnett Shale Area and Opportunities for Cost-Effective Improvements* 18 (2009), *available at* http://www.edf.org/sites/default/files/9235_Barnett_Shale_Report.pdf, Colorado Department of Public Health and Environment, *Colorado Air Quality Control Commission Report to the Public*

The emissions from natural gas development fluctuate over time, from the drilling of the well to the separation and processing of liquids and gases produced from the well. During well completions, natural gas and non-methane hydrocarbons can be released. EPA estimates that unconventional gas development can release 200 times more VOCs during well completions than conventional natural gas drilling.²⁸ When flowback and produced water are brought to the surface, chemical constituents can volatilize and enter the atmosphere,²⁹ if the returned water is stored in open pits, as often happens. Additionally, the equipment used to separate, condense, and compress the liquids and gases produced from the well can leak, sending VOCs into the air.³⁰

In short, unconventional natural gas development is an industrial process that carries a risk of serious water and air pollution. Unlike many other industrial processes, unconventional gas operations often take place literally in people's backyards, as it did on the Hallowich property. Yet despite these risks of serious health effects, as in the Hallowich case, the gas industry routinely obstructs access to information relevant to the industry's health effects.

D. The Natural Gas Industry Uses a Variety of Laws and Litigation Tactics to Prevent Access to Information Relevant to the Health Effects of Gas Development

The experience of the Hallowich family suggests that unconventional gas development can pose a risk of serious adverse health effects. As the industry continues to expand in

2008-2009 (2009), Letter from Dave Freudenthal, Governor, State of Wyoming, to Carol Rushin, Acting Regional Administrator, EPA Region 8, at 1 (2009)

²⁸ 76 Fed. Reg. at 52,757

²⁹ Charles Christen, *Public Health Implications for Marcellus Shale Development* 34 (2010), available at http://www.chec.pitt.edu/documents/Marcellus%20Shale/GSPH_8-27-10_MarcellusHealthOverview_Christen.pdf

³⁰ U.S. Environmental Protection Agency, *Proposed Amendments to Air Regulations for the Oil and Natural Gas Industry Fact Sheet* 4 (2011), available at <http://www.epa.gov/airquality/oilandgas/pdfs/20110728factsheet.pdf>

Pennsylvania and throughout the country, understanding and preventing those health risks has become a public health priority. Unfortunately, some routine practices of the gas industry stand in the way of developing and distributing information on these public health risks.

1. The Gas Industry Has Secured Exemptions from Many Federal Environmental Laws.

The natural gas industry lobbied for and won exemptions from key federal environmental laws that would otherwise apply to its operations. Since these federal laws contain monitoring and reporting requirements, exempting natural gas operations from these laws reduces transparency and information regarding the industry. Most notably, Congress exempted the injection of hydraulic fracturing fluids, except for fluids using diesel as an additive, from the Safe Drinking Water Act³¹. The industry also persuaded Congress to exempt flowback fluids and produced waters from regulation as hazardous waste under the Resource Recovery and Conservation Act ("RCRA"),³² despite the presence of toxic and hazardous chemicals in such fluids and produced waters. Most natural gas facilities are not subject to the Emergency Planning and Community Right to Know Act ("EPCRA"),³³ which is designed to provide communities with information on toxic chemicals used at, or released from, a facility. Additionally, natural gas development is exempt from certain provisions of the Clean Air Act.

³¹ 42 U.S.C. § 300h(d)(1)(B)(ii) (excluding "the underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities" from the definition of "underground injection")

³² 42 U.S.C. § 6921(b)(2)(A)

³³ 42 U.S.C. § 11023 requires the owner or operator of a facility in certain industrial categories that handles certain chemicals above a threshold amount to submit data to EPA on the amount of toxic chemicals used and the amount entering the environment. These requirements apply only to Standard Industrial Classification Codes 23 through 39, *id.* § 11023(b)(1), which do not include most oil and gas operations.

("CAA")³⁴ and the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA")³⁵

If these exemptions did not exist, natural gas companies would have to disclose additional information about their operations. Absent the current exemption, the Safe Drinking Water Act would likely require most hydraulic fracturing operations to obtain a permit³⁶ that would require monitoring and reporting information such as the pressure, flow rate, and cumulative volume of fluids injected underground.³⁷ If the current RCRA exemption did not exist, companies would be subject to detailed record-keeping, labeling, and reporting requirements for the flowback and produced water that qualified as hazardous waste.³⁸ EPA has indicated that, absent the CAA provision exempting oil and gas facilities from the normal aggregation rules, more natural gas facilities would be "major sources" subject to emissions standards for hazardous air pollutants, which would require monitoring air emissions.³⁹

³⁴ 42 U.S.C. § 7412(n)(4)(A) (exempting emissions from certain oil and gas production facilities from the provisions governing aggregating sources when defining a "major source"), *id.* § 7412(n)(4)(B) (prohibiting EPA from listing oil and gas production wells as an area source category, except for a well located within a metropolitan area with a population exceeding one million).

³⁵ 42 U.S.C. § 9601(14) (excluding natural gas and natural gas liquids from the definition of "hazardous substance").

³⁶ The natural gas industry sought the exemption from the Safe Drinking Water Act in part because of an Eleventh Circuit case holding that hydraulic fracturing comes within the definition of "underground injection" and therefore should be regulated under the provisions of the Safe Drinking Water Act governing underground injection of fluids. *Legal Envtl. Assistance Found., Inc. v. EPA*, 118 F.3d 1467, 1475, 1478 (11th Cir. 1997).

³⁷ For example, absent the Congressional exemption, unconventional gas operations using hydraulic fracturing might qualify as Class II injection wells subject to the monitoring and reporting requirements of 40 C.F.R. § 146.23.

³⁸ RCRA requires, among other things, accurate recordkeeping regarding the quantity of hazardous waste generated, the composition of the waste, and where and how the waste is transported and disposed. 42 U.S.C. § 6922(1).

³⁹ 76 Fed. Reg. 52,738, 52,767, 52,786.

Collectively, these federal exemptions⁴⁰ reduce the amount of information collected on the health and environmental impacts of natural gas operations

2. State Laws Exacerbate Public Health Information Gaps.

The natural gas industry has secured state laws and regulations that allow companies to limit disclosure of information useful in evaluating the public health impacts of gas drilling⁴¹ For example, some companies continue to use state laws to avoid disclosing the chemical identity of fracturing fluid ingredients, on the grounds that the chemical identity is a trade secret or proprietary information To take one example, oil and gas companies have persuaded the Wyoming Oil and Gas Commission, acting under Wyoming law, to grant trade secret status to 50 ingredients of fracturing fluids,⁴² such that the chemical identities of those ingredients are not publicly available⁴³

⁴⁰ Eliminating the natural gas industry's exemptions from other federal environmental laws would produce additional information See 42 U S C § 9603 (imposing a duty under CERCLA to notify the National Response Center of the release of a hazardous substance above a threshold amount), 42 U S C §§ 11004, 11022, 11023 (EPCRA provisions requiring notification of local communities and the public of toxic chemicals used in and/or released from a facility)

⁴¹ Some states have laws requiring disclosure of the ingredients of fluids used in hydraulic fracturing of oil and gas wells The state laws vary widely on such topics as whether the concentration of the chemical must be disclosed, whether trade secrets must be disclosed to a state agency, and whether any disclosed information is available online See Matthew McFeely, Natural Resources Defense Council, State Hydraulic Fracturing Disclosure Rules and Enforcement A Comparison (July 2012), available at <http://www.nrdc.org/energy/files/Fracking-Disclosure-IB.pdf>

⁴² Jeremy Fugleberg, *Lawsuit Regulators Were Wrong to Guard Fracking Fluid Contents*, Billings Gazette (Mar 26, 2012), available at http://billingsgazette.com/news/state-and-regional/wyoming/lawsuit-regulators-were-wrong-to-guard-fracking-fluid-contents/article_4e67c5a4-7893-52e8-8420-872f263c1f0b.html

⁴³ The phenomenon of companies resisting disclosure of the chemical identity of fracturing fluid ingredients occurs in Pennsylvania as well, as demonstrated by the information companies provide to a voluntary industry database called FracFocus A brief examination of recent data submitted for Pennsylvania wells shows several chemicals used in Pennsylvania claimed as proprietary or as a trade secret, for which the company failed to provide the Chemical Abstracts

In early 2012, Pennsylvania enacted legislation that, among other things, restricts the ability of health professionals to disclose certain information on fracturing fluid ingredients. The law (known as Act 13) requires companies to disclose to health professionals information on fracturing fluid ingredients claimed as a trade secret or as proprietary information, if such information is necessary for medical treatment of a patient.⁴⁴ However, to obtain such information, a health professional must sign an agreement not to disclose the information “for purposes other than the health needs asserted.” So if a physician obtains information pursuant to this provision and believes that a chemical has caused adverse health effects in a patient, the physician cannot share information about that chemical with other members of the community who might be at similar risk of exposure, with other health care providers whose patients may be similarly exposed, or with researchers conducting health impact assessments or epidemiological studies.

Physicians and other healthcare providers both inside and outside Pennsylvania decried Act 13’s limits on the disclosure of health-related information.⁴⁵ Dr. Jerome A. Paulson, a professor of pediatrics and director of the Mid-Atlantic Center for Children’s Health and the Environment, said of the nondisclosure provisions:

All of the oaths (of the medical profession) require us to work for the good of the public in addition to the individual patients. So blocking our ability to collect

Service number and in some cases did not even provide a generic name for the chemical. See Hydraulic Fracturing Fluid Product Component Information Disclosure Form for API numbers 37-125-24243 (ingredient of a corrosion inhibitor claimed as proprietary), 37-125-24319 (two ingredients of a corrosion inhibitor claimed as trade secrets), available by searching <http://www.hydraulicfracturingdisclosure.org/fracfocusfind/>

⁴⁴ 58 Pa. Cons. Stat. § 3222.1(b)(10)-(11) (2012).

⁴⁵ See Bernard Goldstein & Jill Kriesky, Op-Ed, *The Pennsylvania Gas Law Fails to Protect Public Health*, Pittsburgh Post-Gazette, Mar. 12, 2012, available at <http://www.post-gazette.com/stories/opinion/perspectives/the-pennsylvania-gas-law-fails-to-protect-public-health-221830/>

and share information, or make the collection and sharing of information more cumbersome, means we won't be able to fulfill our responsibilities⁴⁶

This recently enacted provision is an example of the gas industry imposing obstacles to the collection and dissemination of information to researchers and the public about the public health effects of the industry⁴⁷

3. The Gas Industry Routinely Uses Protective Orders and Confidentiality Agreements in Litigation and Settlement, Which Impede Understanding of the Health Impacts of the Industry.

In addition to seeking exemptions from federal environmental laws, and lobbying for state laws that allow them to limit disclosure of information, natural gas companies regularly demand confidentiality and nondisclosure agreements in legal proceedings, which further impedes public knowledge of the impacts of gas development. Natural gas companies insist on confidentiality in tort lawsuits relating to natural gas drilling in at least three ways. First, companies often insist on protective orders to govern materials produced during discovery that the companies claim as confidential business information. Such protective orders typically prohibit disclosure to anyone not involved in the litigation, and require destroying or returning discovery documents to the producing party at the conclusion of the case, among other things. Second, as in most tort cases, the majority of tort cases involving natural gas drilling reach a settlement, and the settlements are usually reached outside of court and are confidential. These settlements typically contain nondisclosure agreements which prohibit the parties from discussing the contents of the settlement or aspects of the case. Third, court records are sealed,

⁴⁶ Susan Phillips, *Leading Public Health Official Says Impact Fee Law Violates Medical Ethics*, StateImpact, Feb. 16, 2012, available at <http://stateimpact.npr.org/pennsylvania/2012/02/16/leading-public-health-official-says-impact-fee-law-violates-medical-ethics/>

⁴⁷ Concerned that Act 13 would conflict with his ethical duties as a physician, Dr. Alfonso Rodriguez, M.D., has challenged the constitutionality of the statute. *Rodriguez v. Krancer*, No. 12-01458 (M.D. Pa. filed July 27, 2012). As of January 7, 2013, the case is pending.

precluding access to court records that would otherwise be public, as occurred in the Hollowich case. Regardless of the precise mechanism by which secrecy is secured, the results are similar. While the individual litigant may obtain a remedy for serious injuries, the public is deprived of information that may relate to the health impacts of gas development.

As unconventional gas development expands in Pennsylvania and throughout the country, there has been a corresponding increase in lawsuits alleging that gas development has harmed people's health. A search of cases with publicly available docket sheets indicates that gas companies routinely use confidentiality in litigation to limit the public's access to information on the industry. First, in both federal and state courts, companies routinely obtain protective orders that grant the defendant natural gas companies broad discretion to designate materials as confidential. Second, most closed cases are resolved by settlement, and companies insist on confidentiality and nondisclosure as terms of any settlement. Exhibit B lists a few of the cases demonstrating these trends.⁴⁸

When these cases, alleging serious adverse health effects from gas development, are resolved, they are resolved in a way that deprives the public of information about the alleged health effects of gas drilling. The defendant companies successfully limit access to data gained in litigation about the defendants' operations – especially as they relate to public health – to the

⁴⁸ The attached Exhibit B does not list all tort claims alleging harm from unconventional gas development for at least two reasons. First, some disputes are resolved prior to filing a case, and such pre-filing settlements are not available in any public database. Second, most filed cases ultimately settle, most settlements are reached out-of-court, and some out-of-court settlements are not reflected in the docket sheet. The trends apparent in the exhibit are consistent, as well, with trends in civil litigation in general. See Marc Galanter, *The Vanishing Trial: An Examination of Trials and Related Matters in Federal and State Courts*, 1 J. Empirical Legal Studies 459, 459 (2004) (noting that 18% of federal civil cases were resolved by trial in 2002); Scott Moss, *Illuminating Secrecy: A New Economic Analysis of Confidential Settlements*, 105 Mich. L. Rev. 867, 869 (2007) (settlements are usually out-of-court and forbid the parties from discussing their allegations, evidence, or settlement amount).

plaintiffs, who are bound by protective orders and nondisclosure agreements from sharing such information with the public. Litigation secrecy, like the limits on disclosure in Act 13, deprives the public of information that could be used to protect public health.

SUMMARY OF ARGUMENT

This case presents a clash between the standard practice of the natural gas industry, which is to insist on secrecy in litigation and in other contexts, and the historic commitment of the courts to public access to judicial proceedings. Physicians and health professionals have called unconventional natural gas development one of the most pressing public health issues, given the scope of industry activities and the risk of serious health effects from gas operations. Yet natural gas companies systematically have impeded access to information relating to the industry's impacts on public health. The natural gas industry has sought and won exemptions from federal environmental laws, has secured state laws that limit disclosure of health-related information, and routinely has insisted on confidentiality in litigation.

Since gas companies use confidentiality so routinely in so many contexts, it is critical to counter this trend by upholding public access to court records in cases involving the health effects of gas development. The trial court orders closing the proceeding below and sealing the record are contrary to two separate lines of cases recognizing the heightened public interest in information that may relate to public health and safety and upholding the historic openness of the courts. Since there is a great public interest in knowing the resolution and record in this case, and since a generalized interest in promoting settlement is not sufficient to overcome the presumption of open access to court records, the Court should grant the motion to unseal the record.

ARGUMENT

I. The Public Interest Lies in Unsealing the Court Record.

In Pennsylvania, analysis of a request to close judicial proceedings or to seal court records “begins with a presumption of openness.” *In re M B*, 819 A 2d 59, 63 n 2 (Pa Super 2003) “In this Commonwealth, there is a presumption, under both the Pennsylvania Constitution and common law, that all court proceedings are open to the public.” *In re J B*, 2012 Pa Super 42, 39 A 3d 421, 425 (Pa Super 2012) Pennsylvania courts have adopted two tests, a constitutional analysis and a common-law analysis, announced in *Publicker Industries, Inc v Cohen*, 733 F 2d 1059, 1065 (3d Cir 1984), for determining whether the parties seeking to close a proceeding and seal a court record have overcome the presumption of public access to court proceedings. See *Storms v O’Malley*, 2001 Pa Super 184, 779 A 2d 548, 569 (2001), *In re M B*, 819 A 2d at 63 n 2, *R W v Hampe*, 426 Pa Super 305, 310 n 3, 626 A 2d 1218, 1220 (1993)

In the prior proceedings in the Court of Common Pleas, the newspapers asserted both a First Amendment and a common law right to access the court proceedings and court records. However, no party identified a governmental interest in nondisclosure, and such an interest must be asserted to satisfy the constitutional test. Since no party has defended the challenged order on the basis of the constitutional test, this brief assumes that the common law test controls in this case.

The common law test applies to cases where the interest of a private party is put forth as the basis for sealing the record. “[U]nder the common law approach, the court engages in a balancing test, weighing on the one hand the factors in favor of access, and, on the other, those against it.” *Storms*, 2001 Pa Super 184, ¶ 55, 779 A 2d at 569 (emphasis in original). Here the

public interest in understanding the public health impacts of gas operations outweighs the Defendants' private interest in maintaining secrecy

A. There Is a Strong Public Interest in Maintaining Open Court Proceedings and Records Pertaining to Natural Gas Operations That May Impact Public Health.

Medical professionals have called unconventional gas development "a public health issue of the highest priority"⁴⁹ They call for more studies and more data on the health effects of gas development⁵⁰ For example, more than 250 medical and health professionals in New York State signed a letter in October 2011 recommending that a full Health Impacts Assessment be conducted to understand and prevent the health risks of unconventional gas development⁵¹ Given the health risks, it is critical that scientists and the public have access to the information necessary to understand the public health impacts of drilling

1. The Natural Gas Industry Routinely Creates Obstacles to Full Public Understanding of the Health Risks of Natural Gas Development.

Notwithstanding the need for an improved understanding of the health effects of gas development, natural gas companies routinely employ an array of mechanisms to prevent disclosure of relevant information Having secured exemptions from federal environmental laws, the industry creates and reports less data on gas operations, including underground fluid

⁴⁹ Press Release, Bassett Medical Center Board of Trustees, Bassett Statements on Hydrofracking, February 9, 2011, *available at* <http://www.bassett.org/our-network/media-room/news/2011/bassett-statements-on-hydrofracking/>

⁵⁰ *See, e.g.*, American Academy of Pediatrics, District II, New York State, Memo of Support, June 7, 2010, *available at* <http://www.tcgasmap.org/media/American%20Academy%20of%20Pediatrics%20Moratorium%20Support%20Letter.pdf> (supporting New York legislation that "provides an opportunity for the EPA to study the potential public health impacts of hydraulic fracturing, and for New York State's leaders to have that information before it makes any decision about permitting hydraulic fracturing")

⁵¹ Letter from Allan Abramson, *et al* to Andrew M. Cuomo, Governor, State of New York, Oct 5, 2011, *available at* <http://www.psehealthyenergy.org/data/lettertoGovCuomofinal.pdf>

injection, waste disposal, and air emissions. Companies obtain state laws that allow them to conceal, or to restrict the disclosure of, information such as the precise chemical identity of ingredients of fracturing fluids, this tactic deprives researchers and the public of information useful in analyzing the potential toxicity of the chemical and monitoring whether there is any migration of fracturing fluids. In legal proceedings, companies' routine use of confidentiality and nondisclosure provisions further limits public access to information discovered about gas company practices and public understanding of the resolution of such cases. In short, the nondisclosure practices of the gas industry create obstacles for the public and scientists seeking information about the health effects of gas development.

2. Against the Backdrop of the Industry's Nondisclosure Practices, the Court Should Recognize the Public's Interest in Information Pertaining to Health and Safety.

The public interest in accessing the record in this particular case is heightened by the secrecy generally promoted by the natural gas industry. If the industry were more forthcoming generally – if it did not seek exemptions from otherwise applicable federal and state disclosure requirements, did not advocate for and use state laws to limit disclosure of information such as the identity of chemicals used in drilling and fracturing, and did not routinely silence injured parties during litigation or as a condition of settlement – then an order sealing the record here might not be significant. But the calculus changes when an effort to conceal information is part of a pattern and practice limiting dissemination of information on the health impacts of gas development. Against that background, it is all the more important to ensure that health and safety-related information in court records is accessible to the public.

Pennsylvania courts have recognized the public interest in knowing the resolution of disputes in matters, such as the provision of medical care, that are deemed to be of great public interest. *See, e.g., R W*, 426 Pa. Super. at 316 (“The medical community and the public

generally have a great interest in observing and learning from medical malpractice actions, and other adversarial proceedings ") The Third Circuit has reached a similar conclusion about the value of open court proceedings and records in matters of public importance, especially in matters pertaining to public health and safety See *Republic of the Philippines v Westinghouse Elec Corp.*, 949 F 2d 653, 664 (3d Cir 1991) ("Commentators have recognized that under certain circumstances access to judicial records promotes public health and safety by not allowing secrets hidden in court records to be shielded from public view Access to civil proceedings and records also acts as a valuable source of information in civil cases that have a public character ") (internal quotations and citations omitted)

Other jurisdictions have passed legislation or rules acknowledging the heightened public interest in court records, including settlements, in cases that involved alleged risks to public health and safety ⁵² Florida, Louisiana, Texas, and Washington have Rules of Civil Procedure or statutes that, to varying degrees, prohibit parties from using the courts to conceal information that may relate to public health or safety

⁵² Fla Stat Ann § 69 081(2)-(3) (prohibiting entry of an order or judgment, and prohibiting enforcement of any contract, which conceals "a public hazard or any information concerning a public hazard" or "information which may be useful to members of the public in protecting themselves from injury which may result from the public hazard "), La Code Civ Proc Ann art 1426(C)-(E) (courts may not issue protective orders or seal records "if the information or material sought to be protected relates to a public hazard or relates to information which may be useful to members of the public in protecting themselves from injury that might result from such public hazard," and courts may not enforce agreements "concealing a public hazard, any information relating to a public hazard, or any information which may be useful to members of the public in protecting themselves from injury that might result from a public hazard"), Tex R Civ P 76a(1)(a)(2), (2)(b) (court records may be sealed only if there is an interest that outweighs "down any probable adverse effect that sealing will have upon the general public health or safety," and defining court records to include settlement agreements "that seek to restrict disclosure of information concerning matters that have a probable adverse effect upon the general public health or safety"), Wash Rev Code Ann § 4 24 611 (confidentiality provisions may be entered into or enforced by a court only if the interest in confidentiality outweighs the interests of the public in understanding the nature, source, and extent of the risk of injury from a product or hazardous or toxic substance)

Taken together, the decisions of Pennsylvania courts, the decisions of the Third Circuit, and the laws of other jurisdictions reflect the principle that the interests of private parties in maintaining confidentiality should yield when the information in question may relate to public health or safety. This is one of those cases. In this lawsuit, the Hallowich family made allegations of serious health impacts from a practice – shale gas operations – that is widespread in Pennsylvania and other states. The public has an interest in understanding the health problems that may be associated with gas development, the facts adduced to support the causal relationship, and how these allegations of serious health effects have been resolved.

B. The Public Interest in Unsealing the Record in this Case Outweighs Any Interest Invoked by the Defendants.

1. The Defendants Offered No Cognizable Evidence of Particularized Harm That Would Result from Unsealing the Court Record.

In the prior proceedings, the Defendants offered nothing more in support of sealing the record than the argument that they always insist on confidentiality in settlements, and court approval should not alter the terms of the settlement they would have insisted upon were court approval not required. Defendants' Joint Brief in Opposition to PG Publishing Company's and the Observer Publishing Company's Petition to Intervene and Motion to Unseal Records at 2-3, *Hallowich v. Range Resources Corp.*, No. 2010-3954 (Ct. Com. Pl. Washington C'ty brief filed Sept. 19, 2011) [hereinafter Def. Opp'n Br.]. But this argument misses the point entirely. Court-approved settlements are fundamentally different from out-of-court settlements, since courts are agencies of government and therefore public institutions to which the public has a right of access. Since court approval was required under Pa. R.C.P. 2039, the Defendants had to present a case-specific, particularized harm that would occur absent sealing and that would outweigh the presumption of public access. *R.W.*, 426 Pa. Super. at 310 n.3, *Storms*, 779 A.2d at 569.

The Defendants have yet to submit any evidence of a cognizable harm that would occur if the record were not sealed. In contrast with *In re MB*, 2003 Pa. Super. 76, ¶¶ 12-16, 819 A.2d at 64-66, in which the Court concluded that closing a dependency proceeding would protect private information regarding children and their family relationships, none of the parties in this case suggested that there were any embarrassing details or private information that might justify sealing the record. Instead, the Defendants justified the sealing order on one basis, and one basis alone: that the Defendants would not have entered into the settlement agreement without the confidentiality provision,⁵³ and that litigants should be able to reach confidential settlements without fear of public scrutiny. Def. Opp'n Br. at 2-3.

Both the Third Circuit Court of Appeals and the Superior Court have squarely held that court records cannot be sealed based solely on a generalized interest in promoting settlements. Indeed, the Third Circuit has rejected the argument made by the Defendants in this case in the most explicit of terms:

In the name of encouraging settlements, Judge Garth would have us countenance what are essentially secret judicial proceedings. We cannot permit the expediency of the moment to overturn centuries of tradition of open access to court documents and orders.

⁵³ In the briefs previously submitted to this Court, the Defendants relied heavily on *Beaver*, 11 Pa. D. & C. 4th 97. *Beaver* is factually distinguishable from this case in every material respect. Whereas in *Beaver*, the plaintiff joined the defendant in resisting efforts to unseal the record, in this case, the Hallowich family has not joined the Defendants in defending the sealing order. In *Beaver*, the plaintiff testified that if the record were not sealed, she feared for the physical safety of her handicapped son and feared that individuals would try to take advantage of his financial situation, if it were disclosed. No party in this case has offered evidence of similar harms that would occur absent the sealing order. Finally, in *Beaver*, the newspapers articulated no public interest in the records they sought, whereas here, the newspapers have claimed that the public has an interest in learning the resolution of a high profile case involving the widespread practice of shale gas development.

[T]he district court did not rely on any particularized showing of the need for continued secrecy . . . but instead only on the general interest in encouraging settlement. As we have held, that is not enough. Even if we were to assume that some settlements would not be effectuated if their confidentiality was not assured, the generalized interest in encouraging settlements does not rise to the level of interests that we have recognized may outweigh the public's common law right of access.

Bank of America Nat'l Trust & Sav. Ass'n v. Hotel Rittenhouse Assoc., 800 F.2d 339, 345-46 (3d Cir. 1986), *see also Storms*, 779 A.2d at 569-70 (upholding a lower court determination that the argument that "sealing of the record would encourage settlement did not outweigh the public's interest in open court proceedings" since the "defendants failed to establish that they would suffer a 'serious injury,' absent sealing of the record.")

The Defendants have failed to provide any evidence of a particularized interest in preventing public access to court records in this case. As a result, there is nothing to balance against the public interest in open court records. For that reason alone, the motion of the newspapers to unseal the record should be granted.

2. The Public Interest in Access to Court Records In This Case Outweighs Any Generalized Interest in Promoting Settlement.

Even if the Defendants could legitimately invoke only a general concern about promoting settlement in support of their private interest in secrecy, the public interest in unsealing the record far outweighs that concern. The Hallowich family did not oppose the newspapers' motion to unseal the record, and they have not defended this Court's prior order either on appeal or on remand. It is clear from the Defendants' own brief that the confidentiality agreement was insisted on by the Defendants, not by the Hallowich family; the Defendants admit that they "would not have entered into the settlement agreement without the confidentiality provision." Def. Opp'n Br. at 2. It is only the Defendants that have any interest in sealing the court record.

and preventing the public from learning additional information about the experience of the Hallowich family

Pennsylvania courts have found that the public interest in open court proceedings outweighs both a defendant's interest in settlements and a plaintiff's interest in privacy. *Storms*, 779 A 2d at 569-70. Even where a plaintiff has demonstrated that embarrassing personal details would be revealed, the Superior Court held that the public's interest in open proceedings outweighs the interest in secrecy. *R W*, 426 Pa Super at 315-17. Given that there are no personal privacy interests at stake here, and that the only harm asserted is the alleged harm to promoting settlement, *Storms* and *R W* dictate that the public interest in open proceedings outweighs the alleged interest in secrecy in this case.

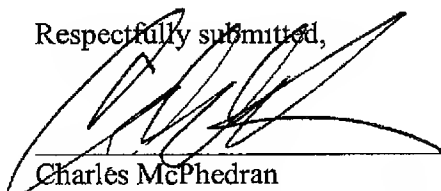
In the prior proceedings, the Defendants' briefs failed to mention any of the kinds of harms that have been held to outweigh the public's interest in open proceedings. In this case, there are no threats to personal safety or risks of unwanted financial solicitations that might occur absent a sealing order, as in *Beaver*, 11 Pa D & C 4th at 104. Nor have the Defendants demonstrated any psychological or emotional harm that would befall the minors in this case absent a sealing order, as was the case in *In re M B*, 819 A 2d at 64-65. Indeed, no Pennsylvania court has ever held that court records may be sealed on nothing more than a party's assertion that it would not have settled but for the confidentiality assured by a sealing order. In sum, the Defendants' private interest in sealing the record does not outweigh the public interest in access to information on the resolution and the facts of this case, which bears on the critical issue of the public health effects of natural gas development.

CONCLUSION

For the reasons set forth above, *Amici* respectfully urge this Court to grant the joint motion to unseal the record

Dated January 7, 2013

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Charles McPhedran, Esq , hereby certify that a true and correct copy of the foregoing Brief of *Amici Curiae* was served upon the following, this 7th day of January, 2013, via Federal Express priority next-day delivery

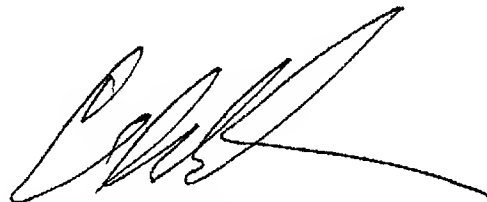
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A handwritten signature in black ink, appearing to read 'C. McPhedran', with a long horizontal line extending from the end of the signature.

Charles McPhedran

Exhibit A

Statements of Interest of *Amici Curiae*

Philadelphia Physicians for Social Responsibility ("PSR") is a chapter of the largest physician-led organization in the U S working to prevent nuclear war and proliferation and to slow, stop and reverse global warming and toxic degradation of the environment PSR's 50,000 health professionals and concerned citizen members and e-activists, 31 PSR chapters, and 41 student PSR chapters at medical and public health schools, along with national and chapter staff, form a unique nationwide network committed to a safer and healthy world The Philadelphia Chapter of Physicians for Social Responsibility was founded in 1979 and focuses on safeguarding the environment as well as ensuring access to universal healthcare and promoting non-violence PSR has an interest in ensuring public access to the information necessary for understanding and preventing the health risks from unconventional gas development

Physicians, Scientists, and Engineers for Healthy Energy ("PSE") is dedicated to providing unbiased and solid scientific information on issues surrounding unconventional gas development and other novel forms of energy production PSE's Board of Directors and affiliated individuals are experts in various fields, ranging from pediatrics and public health to engineering and ecology PSE has an interest in ensuring that there is public, transparent debate about unconventional natural gas development

Dr. Bernard D. Goldstein is Emeritus Professor and former Dean of the University of Pittsburgh Graduate School of Public Health He received his medical degree from New York University and is board certified in Internal Medicine, Hematology, and Toxicology Dr Goldstein is a former Assistant Administrator for Research and Development of the U S Environmental Protection Agency, appointed by President Ronald Reagan He is a member of the Institute of Medicine of the U S

National Academies of Science, has chaired numerous national and international committees related to environmental health matters, and is a past president of the Society for Risk Analysis. Among his more than 200 publications, Dr. Goldstein has co-authored the chapter on Toxicology in the Federal Judicial Center's Reference Manual on Scientific Evidence. He also has a long history of evaluating and responding to environmental public health threats, including gas drilling in the Marcellus shale region. Dr. Goldstein supports unsealing the record in this case because transparency is necessary to protect public health.

Dr. Walter Tsou is an Adjunct Professor of Family Medicine and Community Health at the University of Pennsylvania. He received his medical degree from the University of Pennsylvania, his Master's in Public Health from the Johns Hopkins School of Hygiene and Public Health, and an honorary Doctorate in Medical Sciences from Drexel University. Dr. Tsou is a founding member of the National Board of Public Health Examiners and the national board of Physicians for a National Health Program. He formerly served as President of the American Public Health Association and Health Commissioner of Philadelphia, and was the founding Deputy Director for Personal Health Services and Medical Director of the Montgomery County (PA) Health Department. He has received numerous awards for his work, including the Pennsylvania Immigration and Citizenship Coalition's Award and the Public Health Recognition Award from the College of Physicians of Philadelphia. Dr. Tsou has an interest in ensuring public access to the information necessary for understanding and preventing the health risks from unconventional gas development.

Dr. Jerome A. Paulson is a Professor of Pediatrics at the George Washington University School of Medicine & Health Sciences and a Professor of Environmental & Occupational Health at the George Washington University School of Public Health & Health Services. Dr. Paulson is the Medical Director for National & Global Affairs of the Child Health Advocacy Institute at the Children's National Medical Center. He is also the Director of the Mid-Atlantic Center for Children's Health and the Environment and of the Environmental Health Track at the George Washington University School of Medicine & Health Sciences. Dr. Paulson received his medical degree from Duke University. He is currently the chairperson of the executive committee of the American Academy of Pediatrics' Council on Environmental Health, and serves on the Children's Health Protection Advisory Committee for the U.S. Environmental Protection Agency. In the past, he has worked with the Children's Environmental Health Network, and has also served as a special assistant to the director of the National Center on Environmental Health of the U.S. Centers for Disease Control and Prevention. Dr. Paulson has an interest in ensuring public access to the information necessary for understanding and preventing the health risks from unconventional gas development.

Dr. William Rom is the Sol and Judith Bergstein Professor of Medicine at the NYU Langone Medical Center. He received his medical degree from the University of Minnesota and then completed his residency in internal medicine at the University of California, Davis Medical Center and his clinical fellowship in pulmonary medicine at the Mount Sinai Medical Center. Dr. Rom is Board Certified in internal medicine, pulmonary disease, and occupational medicine. An expert in lung disease and pulmonary medicine, Dr. Rom has published dozens of articles presenting research on such topics as

lung cancer, respiratory diseases, and environmental health. Dr. Rom has an interest in ensuring access to the information necessary to analyze, manage, and prevent risks to human health from unconventional gas development.

Dr. Sandra Steingraber is a Distinguished Scholar in Residence in the Environmental Studies and Science Department at Ithaca College. She received her Ph.D. in biological sciences from the University of Michigan, Ann Arbor. Dr. Steingraber is an internationally recognized authority on the environmental links to cancer and human health. Dr. Steingraber has received numerous awards for her work, including the Heinz Award, the Environmental Health Champion Award from Physicians for Social Responsibility, and the Rachel Carson Leadership Award from Chatham College. She has testified in the European Parliament, and has participated in briefings to Congress and the United Nations. Dr. Steingraber has an interest in ensuring public access to the information necessary for understanding and preventing the health risks from unconventional gas development.

Dr. Simona Perry is an applied anthropologist and independent researcher. Dr. Perry received her Doctorate of Philosophy from the University of Massachusetts Amherst and her Master's degree in marine and environmental policy from the University of Washington. She currently holds a Research Scientist appointment at Rensselaer Polytechnic Institute in Troy, New York. In 2009, Dr. Perry began investigating the social and environmental consequences of Marcellus Shale gas development in northeastern Pennsylvania as a Postdoctoral Scholar at Dickinson College in Carlisle, Pennsylvania. Dr. Perry has experienced firsthand the obstacles that confidentiality agreements create for the work of public health and applied social science researchers.

Pennsylvania residents impacted by shale gas development have been prevented from participating in Dr Perry's research because of confidentiality agreements they signed as part of mineral leases, out-of-court settlements, or other transactions with the natural gas industry

Dr. Robert Oswald is a Professor of Molecular Medicine in the Cornell College of Veterinary Medicine and a Faculty Fellow of the Atkinson Center for a Sustainable Future Dr Oswald received his Ph D from Vanderbilt University in Biochemistry, studying the effects of toxins on proteins in the central nervous system He completed postdoctoral studies as a Muscular Dystrophy and Collège de France Fellow at the Institut Pasteur in Paris before joining the faculty of Cornell University in 1981 Dr Oswald's work on the effects of drugs and toxins on the structure and function of central nervous system proteins has been supported by the National Institutes of Health, the National Science Foundation, and the American Cancer Society He is currently director of the Molecular Biophysics Training Program at Cornell Dr Oswald has served on numerous review panels for the National Institutes of Health and is on the editorial board of Molecular Pharmacology and the Journal of Biological Chemistry Dr Oswald has an interest in ensuring public access to the information necessary for understanding and preventing the health risks from unconventional gas development

Dr. Michelle Bamberger is a veterinarian in private practice in Ithaca, NY Dr Bamberger received her D V M from Cornell University in 1985 Before attending Cornell, she earned her Master's degree in pharmacology from Hahnemann University Medical College After graduating from Cornell, Dr Bamberger studied at Oxford University and practiced small animal and exotic medicine and surgery in both

Massachusetts and New York. Before opening Vet Behavior Consults in 2002, Dr Bamberger returned to Cornell for training in the field of behavior medicine as a Visiting Fellow. She has taught adult education courses and written two books on the topic of first aid. She devotes much of her spare time to documenting and studying the impacts that hydraulic fracturing for extraction of hydrocarbons has on both animal and human health. Dr Bamberger supports unsealing the record in this case because knowledge of the health impacts of this family is vital to understanding not only what may have caused their health problems but also in understanding how the health of the general public may be affected.

Kathryn Vennie is a practicing clinical and forensic psychologist. She has been licensed for the independent practice of psychology in Pennsylvania since 1979. Ms Vennie received a Masters degree in Counseling from Marywood College (now known as Marywood University), and completed further graduate work in psychology at St. John's University and New York University. She is the current President of the Northeastern Pennsylvania Psychological Association and is an active member of the Pennsylvania Psychological Association. Previously, Ms Vennie served as a special education supervisor in Berks County, and as Director of Special Education in a four-county Intermediate Unit in Central Pennsylvania consisting of Juniata, Huntington, Mifflin and Fulton Counties. Ms Vennie is currently treating patients who have been impacted by the disruption of their formerly peaceful rural environment by the Pennsylvania gas industry. Ms Vennie has an interest in ensuring public access to the information necessary for understanding and preventing the health risks from unconventional gas development.

Earthworks is a non-profit organization dedicated to protecting communities and the environment from the impacts of irresponsible mineral and energy development while seeking sustainable solutions. For over two decades, Earthworks has been engaged in efforts nationwide to reform public policy, improve corporate practices, and use sound science to inform the public of the health, environmental, and economic consequences of mineral extraction and production. Earthworks has worked at the state and federal levels to improve disclosure of the chemicals used in unconventional gas drilling and regulations to reduce air emissions and water contamination. In Pennsylvania and other states, Earthworks has documented the links between health problems and pollution in proximity to gas and oil drilling and facilities.

Exhibit B

Chart Documenting the Uses of Confidentiality and Nondisclosure Agreements in Tort Cases Alleging Injuries from Unconventional Gas Development

Tort Cases Alleging Injuries from Unconventional Natural Gas Development

Note all information is accurate as of January 7, 2013
 The * symbol indicates that as of January 7, 2013, the docket sheet and/or documents in the docket could not be accessed online

State	Case name, number	Plaintiff(s)	Claim	Settled or Active	Information not publicly available
AR	<i>Tucker v Southwestern Energy Co</i> , No 11-0044 (E D Ark filed May 17, 2011)	Class-action on behalf of residents living close to gas operations controlled by the defendant	Southwestern Energy contaminated a private water well with fracking fluid (including alpha methylstyrene), and caused soil and air pollution as well	Settled and dismissed on August 29, 2012	Protective order governing discovery materials entered December 16, 2011, Doc # 79
AR	<i>Ginardi v Frontier Gas Services, LLC</i> , No 11-0420 (E D Ark filed May 17, 2011)	Class action on behalf of plaintiffs who reside close to a natural gas compressor or transmission stations in the state of Arkansas	Residents living close to natural gas compressor stations are exposed to harmful levels of methane, hydrogen sulfide, and other emissions	Settled and dismissed on July 11, 2012	Protective order governing discovery materials entered November 9, 2011, Doc # 79
AR	<i>Berry v Southwestern Energy Company</i> , No 11-0045 (E D Ark filed May 17, 2011)	Class action on behalf of plaintiffs who reside within 3 miles of natural gas wells in the state of Arkansas	In 2011, Southwestern Energy caused methane to migrate to the named plaintiffs' drinking water well in Quitman, Arkansas	Settled claims against some defendants and dismissed claims against all defendants on August 29, 2012	No protective order entered

CO	Case name and number unknown	Laura Amos	Chemicals used in fracking contaminated plaintiff's drinking water and caused her to develop a rare form of cancer	Settlement in 2006 ¹	According to newspaper accounts, the plaintiff's lawyer obtained documents during discovery proving that chemicals present in the plaintiff's drinking water were used in the defendant's fracking fluids
CO	Case name and number unknown	Aimee Ellsworth	Gas operations caused methane contamination of private water well	Settlement	According to press accounts, the settlement contained a nondisclosure agreement
CO	<i>Strudley v Antero Resources Corp.</i> , No 11-2218 (Denver Co Dist Ct filed Mar 23, 2011)	William and Beth Strudley, and their two children, William and Charles	Drilling and operation of three gas wells near the family's property caused groundwater contamination and air pollution	Unknown	Unknown*
CO	<i>Everson v Antero Resources Corp.</i> , No 11-5118 (Denver Co Dist Ct filed July 20, 2011)	Families in Garfield County	The defendant gas company exposed the families to hazardous gases, chemicals, and toxic waste	Unknown	Unknown*

¹ Various newspapers reported that the parties reached a settlement in 2006. Abraham Lustgarten, *Drilling Process Causes Water Supply Alarm*, Denver Post, Nov. 17, 2008, available at http://www.denverpost.com/breakingnews/ci_11001835_Mike_Soraghan_Begged_about_Fracking?You're_Not_Alone, NEW YORK TIMES, May 13, 2011, available at <http://www.nytimes.com/gwire/2011/05/13/13greenwire-battled-about-fracking-youre-not-alone-44383.html?pagewanted=all>

² Colorado Oil and Gas Conservation Commission, *Gasland Fact Sheet*, available at <http://ogcc.state.co.us/libray/GASLAND%20DOC.pdf>

LA	<i>Andre v EXCO Resources, Inc</i> , No 11-00610 (W D La filed April 15, 2011)	Class action on behalf of David Andre and others sustaining damages from natural gas well blow out	Methane and other contaminants migrated into drinking water wells as a result of natural gas drilling	Active	No confidentiality agreement or protective order
LA	<i>Beckman v EXCO Resources, Inc</i> , No 11-00617 (W D La filed April 18, 2011)	Six individuals and one corporation	The defendant's drilling operations caused methane and other contaminants to enter the plaintiffs' drinking water supplies	Active	Defendant has not answered yet and therefore discovery has not commenced No confidentiality agreement or protective order
NY	<i>Baker v Anschutz Exploration Corp</i> , No 11-06119 (W D N Y filed Mar 9, 2011)	15 people residing in Horseheads, New York	The defendant's drilling operations caused methane and other contaminants to enter the plaintiffs' drinking water supplies	Active	Protective order governing discovery materials entered May 27, 2011, Doc # 36
NY	<i>Maring v Nalbone</i> , No K 12009001499 (N Y Sup Ct Chautauqua Co Filed Aug 27, 2009)		Defendants' drilling operations contaminated her drinking water well with methane	Unknown*	Unknown*
PA	<i>Armstrong v Chesapeake Appalachia, LLC</i> , No 10-02453 (MD Pa filed Dec 6, 2010) remanded to state court July 29, 2011	Three residents of Sugar Run, Pennsylvania	Defendants drilled three natural gas wells close to plaintiffs' residence and caused methane and other pollutants to contaminate their drinking water	Active	Unknown*
PA	<i>Florentino v Cabot Oil & Gas</i> , No 09-2284 (MD Pa filed Nov 19, 2009)	63 residents of Dimock and Montrose	Cabot's drilling operations released methane and other toxins onto the plaintiffs' land and into their groundwater	Active	Discovery materials are subject to a protective order, several sealed documents appear on the docket sheet

PA	<i>Berish v Southwestern Energy Production Co</i> , No 10-1981 (MD Pa filed Sept 29, 2010)	31 residents of Susquehanna County	Improper well casing allowed fracking fluids and other pollutants to contaminate well water	Active	The parties anticipate filing a protective order to govern discovery materials See Doc # 110, filed December 6, 2012
PA	<i>Dillon v Antero Resources Corp</i> , No 11-1038 (W D Pa filed Aug 11, 2011)	David and Tara Dillon	Operation of a gas well drilled near the plaintiffs' property caused contamination of their drinking water and harmed their health	Settled and dismissed on December 19, 2012	Defendant Antero Resources Corp moved for entry of a confidentiality agreement governing discovery materials on April 2, 2012
PA	<i>Becka v Antero Resources Corp</i> , No 11-1040 (W D Pa filed Aug 11, 2011)	Paul and Yvonne Beca	Operation of a gas well drilled near the plaintiffs' property caused contamination of their drinking water and harmed their health	Active	Order entered on July 10, 2012 governing designation of discovery materials as confidential See Doc # 32
PA	<i>Zimmerman v Atlas America, LLC</i> , No 2009-7564 (Pa Ct Com Pl filed Sept 21, 2009)	The Zimmerman family	Drilling operations contaminated drinking water and soil with toxic chemicals	Unknown*	Unknown*
TX	<i>Scoma v Chesapeake Energy Corp</i> , No 10-1385 (N D Tex filed July 15, 2010)	Jim and Linda Scoma	Chesapeake's drilling activities contaminated plaintiffs' well water	Settled Case dismissed because of settlement, December 9, 2011, Doc #68	Discovery materials are subject to a protective order

TX	<i>Mitchell v Encana Oil & Gas, Inc</i> , No 10-02555 (N D Tex filed Dec 15, 2010)	Grace Mitchell	Encana and Chesapeake contaminated the plaintiff's well water	Settled Case voluntarily dismissed on 11/14/11 after settlement	Discovery materials were subject to a protective order agreed to by the parties
TX	<i>Harris v Devon Energy Production Co, LP</i> , No 10-00708 (E D Tex filed Dec 22, 2010)	Diana and Doug Harris	Devon contaminated two wells on the plaintiffs' property	Case voluntarily dismissed by plaintiffs after defendants moved for summary judgment	Discovery materials were subject to a protective order
TX	<i>Parr v Aruba Petroleum, Inc</i> , No 11-01650 (Dallas County Court at Law No 5 filed Mar 8, 2011)	Lisa and Robert Parr	Drilling operations caused a variety of health problems, well contamination, and property damage	Active	Protective order/confidentiality agreement governing discovery materials entered February 3, 2012
TX	<i>Ruggiero v Aruba Petroleum, Inc</i> , No 10-10-801 (Wise County, District Court, filed Oct 18, 2010)	The Ruggiero family	Drilling operations resulted in, among other things, air emissions that caused respiratory and neurological effects in the plaintiffs	Settlement reached in 2011	Out of court, confidential settlement
TX	<i>Town of Dish v Almos Energy Corp</i> , No 2011-40097-362 (Denton County, filed Feb 28, 2011), transferred to number 153-255400-11 (Tarrant County)	The town of Dish, Texas	Several companies built compressors, dehydrators, and pipelines which emitted air toxins	Unknown*	Unknown*
TX	<i>Sizelove v Williams Production Co, LLC</i> , No 2010-50355-367 (Denton County, 367th District Court filed Nov 3, 2010)	John and Jayme Sizelove	Drilling operations and gas compressor stations harmed the plaintiffs' health, by causing headaches, respiratory problems, and other symptoms	Active	Unknown*

TX	<i>Henkel-Wolfe v Williams Prod Co LLC</i> , No 2010-40355-362 (Denton County 362nd District Court filed November 3, 2010)	Margaret Henkel-Wolfe and her daughter, Paige	Drilling operations contaminated the water and air surrounding the plaintiffs' property	Settled and dismissed on September 17, 2012	Unknown*
WV	<i>Hagy v Equitable Production Company</i> , No 10-01372 (S D W Va removed to federal court Dec 10, 2010)	Dennis and Tamara Hagy	Improper cement casing and improper handling and disposal of drilling wastes led to contamination of plaintiffs drinking water well	On appeal to the Fourth Circuit	Protective order governing discovery materials entered March 30, 2012, Doc # 233
WV	<i>Rune v Chesapeake Appalachia, LLC</i> , No 11-0004 (N D W Va filed April 10, 2011)	Larry and Jane Rune	Gas wells and associated waste ponds led to various chemicals contaminating plaintiffs' property and causing emotional stress (no direct physical injuries alleged)	Settled and dismissed on July 7, 2011	Discovery materials were subject to a protective order agreed to by the parties The settlement was not filed with the court and presumably is confidential

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND CHRIS
HALLOWICH, H/W,

Plaintiffs,

v

RANGE RESOURCES CORPORATION.
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM; MARKWEST ENERGY
PARTNERS, LP; MARKWEST ENERGY
GROUP, LLC,

Defendants

Docket No 2010-3954

NOTICE OF PRESENTATION

TO.

Ern W McDowell
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219

Kathy K Condo
Christopher M Buell
Babst, Calland, Clements and Zomnir, P.C.
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222

Frederick N. Frank
Ellis W Kunka
Frank, Gale, Bails, Murcko & Pocrass, P.C
707 Grant Street, Suite 3300
Pittsburgh, PA 15219

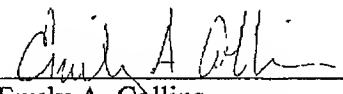
Colin E Fitch
Mariner, Jones & Fitch
800 Washington Trust Building
30 East Beau Street
Washington, PA 15301

James C Swetz
Richard Hosking
K & L Gates
210 Sixth Avenue
Pittsburgh, PA 15222

FILED
13 JAN 14 AM 9:50
PROthonary
WASHINGTON CO PA.

KINDLY TAKE NOTICE that the within **Motion for Admission *Pro Hac Vice*** will be presented to the Honorable Debbie O'Dell Seneca, Judge of the Washington County Court of Common Pleas, on the 18th day of January, 2013, at 9 15 A M , in courtroom no. 1, Washington County Courthouse, 1 South Main Street, Washington, PA 15301

Dated January 11, 2013


Emily A Collins
Attorney ID No 208990
University of Pittsburgh School of Law
P O Box 7226
Pittsburgh, PA 15213-0221
(412) 648-8549 | Phone
(412) 648-1992 | Fax
eac50@pitt.edu

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND CHRIS)	
HALLOWICH, H/W,)	
)	
Plaintiffs,)	
)	
v)	Docket No 2010-3954
)	
RANGE RESOURCES CORPORATION,)	
WILLIAMS GAS/LAUREL MOUNTAIN)	
MIDSTREAM, MARKWEST ENERGY)	
PARTNERS, LP; MARKWEST ENERGY)	
GROUP, LLC,)	
)	
Defendants)	
)	

MOTION FOR ADMISSION *PRO HAC VICE*

Emily A. Collins, counsel for proposed *Amici Curiae* Philadelphia Physicians for Social Responsibility, Physicians, Scientists, and Engineers for Healthy Energy, Dr. Bernard D. Goldstein, Dr. Walter Tsou, Dr. Jerome A. Paulson, Dr. William Rom, Dr. Sandra Steingraber, Dr. Simona Perry, Dr. Robert Oswald, Dr. Michelle Bamberger, Kathryn Vennie, and Earthworks (collectively, *Amici*), hereby moves for permission for counsel Deborah Goldberg, Esquire, to appear *pro hac vice* in the above-captioned matter, averring as follows

1. Counsel seek leave of court to file an *amici curiae* brief in the above-captioned case
2. Attached hereto as Exhibit A is my affidavit as required of the sponsoring attorney by Pa. R. Civ. P. 1012.1(d)(2)
3. Attached hereto as Exhibit B is the affidavit of Deborah Goldberg as required by Pa. R. Civ. P. 1012.1(c)

4 The fee required by Section 81 303(a) of the Pennsylvania Administrative Code has been paid to the Pennsylvania Interest on Lawyer Trust Account Board Attached hereto as Exhibit C is a copy of a fee payment certification from the Pennsylvania Interest on Lawyer Trust Account Board

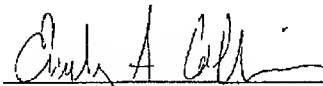
5 The information required by Section 81 504 of the Pennsylvania Administrative Code has been provided to the Pennsylvania Interest on Lawyer Trust Account Board

6 As is more fully set forth in my Verified Statement, I am acquainted with Deborah Goldberg and can attest to her fitness for admission *pro hac vice*

7 Good cause exists for admitting Deborah Goldberg on a *pro hac vice* basis because *Amici* have requested that Deborah Goldberg represent them in this case

Wherefore, Emily A Collins respectfully requests that this Court enter an order admitting Deborah Goldberg *pro hac vice* on behalf of *Amici*

Respectfully submitted,



Emily A Collins
Attorney ID No 208990
University of Pittsburgh School of Law
P O Box 7226
Pittsburgh, PA 15213-0221
(412) 648-8549 | Phone
(412) 648-1992 | Fax
eac50@pitt.edu

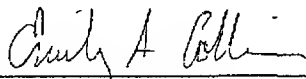
Exhibit A

Deborah Goldberg is granted admission *pro hac vice* shall be received, held, distributed and

accounted for in accordance with Rule 1.15 of the Pennsylvania Rules of Professional Conduct,
including the IOLTA provisions thereof, if applicable

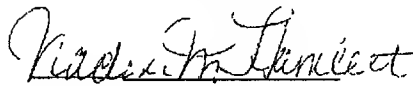
I hereby verify, subject to the penalties for unsworn falsification to authority under 18 Pa
C.S. § 4904, that the foregoing statements of fact are true and correct to the best of my
knowledge, information, and belief

Executed this 10th day of January, 2013, in Pittsburgh, Pennsylvania



Emily A. Collins
Attorney ID No 208990

Sworn to before me this 10th
day of January, 2013



Notary Public

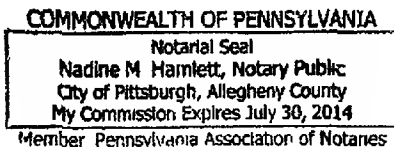


Exhibit B

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND CHRIS
HALLOWICH, H/W,

Plaintiffs,

v

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, LP, MARKWEST ENERGY
GROUP, LLC,

Defendants.

Docket No 2010-3954

**VERIFIED STATEMENT OF DEBORAH GOLDBERG
IN SUPPORT OF ADMISSION *PRO HAC VICE***

I, Deborah Goldberg, declare as follows.

1 I seek to appear as counsel for proposed *Amici Curiae* in the above-captioned proceeding My professional contact information is as follows

Deborah Goldberg
Earthjustice
156 William Street, Suite 800
New York, NY 10038
(212) 845-7376

2 I am admitted to practice law in the highest court of New York I am a member in good standing and am eligible to practice in the following courts

<u>Court</u>	<u>Date Admitted</u>
State Bar of New York, registration no 2108959	1987
United States Supreme Court	1991
U S Court of Appeals for the First Circuit	1987

U S. Court of Appeals for the Second Circuit	2012
U S Court of Appeals for the Fourth Circuit	2007
U S Court of Appeals for the Eighth Circuit	1998
U S Court of Appeals for the Ninth Circuit	2005
U S Court of Appeals for the Eleventh Circuit	2003
U S Court of Appeals for the D C Circuit	2009
U S District Court for the Southern District of New York (DG9285)	1988
U S District Court for the Eastern District of New York (DG9285)	1989

3 I have not been disciplined by any court, and there are no disciplinary proceedings pending against me in any jurisdiction

4 I have been admitted as *pro hac vice* counsel in *Clean Water Action vs Commonwealth of Pennsylvania Department of Environmental Protection and Shallenberger Construction, Inc* (EHB Docket No. 2009-134-R) This is the only pending action in all courts of record in Pennsylvania in which I have applied for admission *pro hac vice*

5 I have not been denied admission *pro hac vice* or had such admission revoked by any court in any jurisdiction

6 I shall comply with and be bound by the applicable statutes, case law and procedural rules of the Commonwealth of Pennsylvania, including the Pennsylvania Rules of Professional Conduct

7 I shall submit to the jurisdiction of the Pennsylvania courts and the Pennsylvania Disciplinary Board with respect to acts and omissions occurring during my appearance in this matter

8 Counsel of Record for *Amici*, Charles McPhedran (Pa Bar Id No 60123), is an attorney admitted to practice in the courts of Pennsylvania, but he is unable to appear at the hearing on this matter, scheduled for January 18, 2013. For that reason, *Amici* respectfully request that I be admitted *pro hac vice* and be permitted to represent them at the hearing.

9 The attorneys for defendant Williams Gas/Laurel Mountain Midstream, proposed intervenor PG Publishing Company, and proposed intervenor Observer Publishing Company have consented to the enclosed motion. Counsel for defendant Range Resources Corporation and counsel for defendants MarkWest Energy Partners, L P., and MarkWest Energy Group, L L C have not responded to repeated telephone calls seeking their consent. I understand that, under these circumstances, the motion for my admission *pro hac vice* must be presented to the Court by the sponsoring attorney.

10 Because Mr. McPhedran is unable to attend the January 18 hearing, co-counsel Emily A. Collins (Pa Bar Id No 208990) is sponsoring my admission *pro hac vice*. Mr. McPhedran will continue to serve as Counsel of Record and to receive process for all actions, including disciplinary actions, that may arise out of the practice of law in this matter. With the Court's permission, Ms. Collins will present the motion for admission *pro hac vice* of Ms. Goldberg at the hearing on January 18.

I hereby verify, subject to the penalties for unsworn falsification to authority under 18 Pa. C S § 4904, that the foregoing statements of fact are true and correct to the best of my knowledge, information, and belief.

Executed this 11th day of January, 2013, in New York, New York

Deborah Goldberg
Deborah Goldberg

Sworn to before me this
11th day of January, 2013.

M. Engelman Lado
Notary Public

MARIANNE ENGELMAN LADO
NOTARY PUBLIC-STATE OF NEW YORK
No 02EN6236602
Qualified in New York County
My Commission Expires February 28, 2015

Exhibit C

SUPREME COURT OF PENNSYLVANIA
PENNSYLVANIA INTEREST ON
LAWYERS TRUST ACCOUNT BOARD

January 10, 2013

GOLDBERG DEBORAH, Esq
EARTHJUSTICE
156 WILLIAM STREET
SUITE 800
NEW YORK, NY 10038

SENT TO ABRAHAM ALLISON VIA Email AALLISON@EARTHJUSTICE.ORG

Dear Attorney DEBORAH

This letter serves as the fee payment certification referenced in 204 Pa Code §81.503 and acknowledges receipt of the \$200.00 fee paid by Online Payment on this date related to your pursuit for admission *pro hac vice* in the case identified as *Hallowich v. Range Resources Corp.* et al., no. C-63-CV-201003954, filed in the Court of Common Pleas of Washington County.

You should refer to Pa Rule of Civil Procedure 1012.1, local court rules, and other regulations of 204 Pa Code §81.501 et seq. concerning additional requirements related to seeking *pro hac vice* admission.

Sincerely,



Alfred J. Azen
Executive Director

cc: EMILY A. COLLINS, Esq
eac50@pitt.edu

Pennsylvania Judicial Center
601 Commonwealth Ave. Ste. 2400
PO Box 62445, Harrisburg, PA 17106-2445
717/238-2001 888/PA-IOLTA (724-6582) 717/238-2003 FAX
paiolta@pacourts.us www.paiolta.org

Administering Pennsylvania's Interest On Lawyers Trust Account (IOLTA) Program

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND CHRIS
HALLOWICH, H/W,

Plaintiffs,

v

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, LP, MARKWEST ENERGY
GROUP, LLC,

Defendants

Docket No 2010-3954

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13 JAN 14 AM 9:50
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WASHINGTON CO PA.

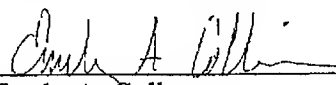
NOTICE OF ENTRY OF APPEARANCE

Please enter the appearance of Emily A. Collins in the above-captioned matter as counsel on behalf of proposed *Amici Curiae* Philadelphia Physicians for Social Responsibility, Physicians, Scientists, and Engineers for Healthy Energy, Dr. Bernard D. Goldstein, Dr. Walter Tsou; Dr. Jerome A. Paulson, Dr. William Rom, Dr. Sandra Steingraber; Dr. Simona Perry, Dr. Robert Oswald; Dr. Michelle Bamberger, Kathryn Vennie, and Earthworks

Respectfully Submitted,

1/11/2013

Date


Emily A. Collins
Attorney ID No 208990
University of Pittsburgh School of Law
P O Box 7226
Pittsburgh, PA 15213-0221
(412) 648-8549 | Phone
(412) 648-1992 | Fax
eac50@pitt.edu

CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2013, I served a true and correct copy of the foregoing Notice of Entry of Appearance of Emily A Collins and Motion for Admission *Pro Hac Vice* (with Notice of Presentation, Exhibits A, B, and C, and proposed Order) upon the following via Federal Express priority next-business-day delivery


Frederick N Frank
Frank, Gale, Bails, Murcko & Pocrass P C
707 Grant Street, Suite 3300
Pittsburgh, PA 15219
Counsel for PG Publishing Company

Kathy K Condo
Babst, Calland, Clements & Zomnir, P C
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222
*Counsel for Williams Gas/Laurel Mountain
Midstream*

Erin W McDowell
Eckert Seamans Cherin & Mellott, LLC
600 Grant St , 44th Floor
Pittsburgh, PA 15219
*Counsel for MarkWest Energy Group, LLC and
MarkWest Energy Partners, LP*

Colin E Fitch
Marriner, Jones & Fitch
800 Washington Trust Building
30 East Beau St
Washington, PA 15301
Counsel for Observer Publishing Company

James C Swetz
K&L Gates, LLP
210 Sixth Ave
Pittsburgh, PA 15222-2613
Counsel for Range Resources Corporation


Abraham Allison

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND CHRIS
HALLOWICH, H/W,

Plaintiffs,

v

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM; MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L L C , and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

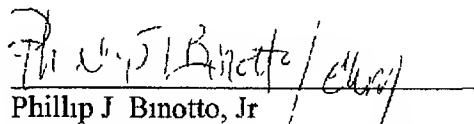
Docket No 2010-3954

2013 JAN 16 PM 2:34

NOTICE OF ENTRY OF APPEARANCE

Please enter the appearance of Phillip J Binotto of Eckert Seamans Cherm & Mellott,
LLC on behalf of Defendants MarkWest Energy Partners, L P , and MarkWest Energy Group,
L.L C. in connection with the above-captioned matter

Respectfully submitted,



Phillip J Binotto, Jr
Pa I D. #21817

ECKERT SEAMANS CHERIN & MELLOTT, LLC
Suite 200, Summit Corporate Center
1001 Corporate Drive
Canonsburg, PA 15317-8563
Tel (724) 873-2870

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Notice of Entry of Appearance** was served on the following individuals by United States mail this 16th day of January 2013

Peter M. Villari, Esquire
Villari, Brandes & Kline, P.C.
8 Tower Bridge
161 Washington Street, 4th Floor
Conshohocken, PA 19428

Gail A. Myers, Esquire
DEP-Office of Chief Counsel
400 Waterfront Drive
Pittsburgh, PA 15222-4745

Frederick N. Frank
Frank, Gale, Bails, Murcko & Pocrass,
P.C.
33rd Floor, Gulf Tower
707 Grant Street
Pittsburgh, PA 15219

Colin E. Fitch
Marriner, Jones & Fitch
800 Washington Trust Building
30 East Beau Street
Washington, PA 15301

Richard W. Hosking
James C. Swetz
K&L GATES LLP
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222-2613

Kathy K. Condo
Christopher M. Buell
BABST CALLAND CLEMENTS &
ZOMNIR, PC
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222



Ern McDowell, Esq.

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND CHRIS
HALLOWICH, H/W,

Plaintiffs,

v.

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P , MARKWEST ENERGY
GROUP, L.L C , and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants

Docket No. 2010-3954

**OPPOSITION TO MOTION FOR
LEAVE TO FILE *AMICI CURIAE*
BRIEF**

Counsel of Record for Defendants:

Phillip J Binotto, Jr.

Pa I.D. #21817

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I. INTRODUCTION

The Court should deny the Proposed Amici's request to submit yet another brief in a matter that the actual parties sought to privately settle and end long ago. Because the PG Publishing Company and the Observer Publishing Company (the "Newspapers") assert the same right and present equivalent arguments as those that the Proposed Amici seek to assert, granting the Proposed Amici's motion will not aid in the resolution of the Newspapers' Petitions to Intervene and Motion to Unseal the Record. The issues have already been adequately and extensively addressed by the parties already before the Court.

II. RESPONSE

1. Denied as stated. Stephanie and Chris Hallowich commenced a lawsuit by writ of summons. The Hallowiches did not file a complaint and therefore made no allegations in this lawsuit. The Hallowiches, their two children and the Defendants subsequently reached a settlement agreement. Because the Hallowiches' minor children were parties to the settlement agreement, the Hallowiches sought the Court's approval of the settlement pursuant to Pennsylvania Rule of Civil Procedure 2039 and Local Rule 2039.1, and the parties *jointly* sought to seal the records relating to the petition to approve of the settlement agreement. The Court approved the settlement agreement and granted the joint motion to seal the record relating to the petition to approve the settlement agreement. It is admitted that the Newspapers filed petitions to intervene and a joint motion to unseal the record, and that the Court denied those petitions on the basis that they were untimely.

2. Defendants admit the following: (i) that the Newspapers appealed the Court's decision, (ii) that the Superior Court reversed and remanded the case for a ruling on the merits of

the Newspapers' petitions to intervene and joint motion to unseal the record, and (iii) that the Court has scheduled a hearing on the petitions and motion on January 18, 2013

3. The Defendants have no knowledge about the Proposed Amici's background, interests, research and beliefs, as they are strangers to this litigation. However, assuming that the Proposed Amici have the backgrounds, interests, research and beliefs set forth in their Motion, their seeking to peruse private settlement agreements of minors is not the appropriate way to satisfy these interests and beliefs or to further any research. As to the Proposed Amici's request to opine about open judicial proceedings and court records, the Proposed Amici can provide no arguments beyond those already offered by the Newspapers themselves. In short, the Proposed Amici's position is surplusage and misdirected.

4. It is admitted that the Proposed Amici seek leave to file a brief with the Court. However, it is denied that the Proposed Amici's brief would assist the Court in resolving this matter for at least two reasons. *First*, the Newspapers' alleged right of access to the records of this dispute between private parties is the same as that of any member of the public. *Commonwealth v. Frattarola*, 485 A.2d 1147, 1154-55 (Pa. Super. Ct. 1984). Therefore, the Newspapers stand in the same position as the Proposed Amici. *Second*, the issues have been exhaustively briefed, and the Newspapers already have made the very same "public interest" arguments that the Proposed Amici seek to make. *See, e.g.*, Newspapers' Joint Brief in Support of Motion to Unseal Record, pp. 12-13. Therefore, the Proposed Amici's participation will not aid in resolving the issues. The Court may deny a request of a party to participate as an amicus where it will not aid in the resolution of a matter. *See, e.g., In re Philadelphia Health Care Trust*, No. 1292 NP 1998, 2004 WL 1771497, at *6 (Pa. Com. Pl., Aug. 8, 2004), *aff'd* 872 A.2d 258 (Pa. Commw. Ct. 2005). Finally, while the Proposed Amici suggest that the records were

sealed based on the Defendants' preference, the records were sealed pursuant to a joint request by the Hallowiches and the Defendants

5 It is admitted that there does not appear to be a Rule of Civil Procedure regarding submission of *amicus* filings to a Court of Common Pleas, and that the Courts appear to have the discretion to accept such a filing. However, the Court also has the discretion to deny such a request *See, e g, In re Philadelphia Health Care Trust*, No 1292 NP 1998, 2004 WL 1771497, at *6 (Pa Com Pl., Aug. 8, 2004), *aff'd* 872 A 2d 258 (Pa Commw Ct 2005)

6 Admitted By way of further response, accepting the Proposed Amici's brief will effectively double the amount of briefing that the Defendants will need to review and potentially respond to on an already expedited schedule

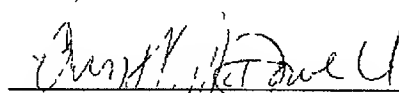
7. Admitted

8 The Defendants do not object to deciding the Proposed Amici's motion on the papers without oral argument.

III. CONCLUSION

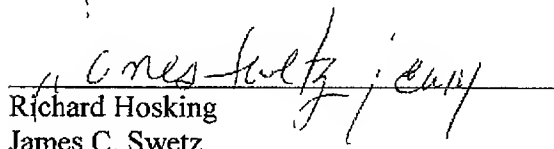
For the foregoing reasons, the Court should deny the Proposed Amici's request to file an *Amici Curiae* brief in this matter.

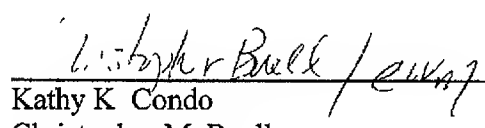
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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **Opposition to Motion for Leave to File *Amici***

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STEPHANIE HALLOWICH AND CHRIS
HALLOWICH, H/W,

Plaintiffs,

V.

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L P., MARKWEST ENERGY
GROUP, L.L.C., and PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants.

Docket No 2010-3954

BRIEF IN OPPOSITION TO MOTION TO UNSEAL RECORD

Defendants Range Resources Corporation¹, Williams Gas/Laurel Mountain Midstream, MarkWest Energy Partners, L P , and MarkWest Energy Group, L.L C (collectively, the “Companies”) file this Brief in Opposition to the Motion to Unseal Record submitted by the PG Publishing Company and Observer Publishing Company (collectively, the “Newspapers”)

¹ Parent company Range Resources Corporation was mistakenly named in this action and in the Motion. However, Range Resources-Appalachia, LLC, a subsidiary of Range Resources Corporation, operates in Washington County, Pennsylvania, not its parent, Range Resources Corporation.

INTRODUCTION

The Court should deny the Newspapers' request to unseal a filing by the Plaintiffs and the Companies seeking approval of the parties' confidential settlement due to the involvement of minors. Although the Newspapers may wish it were not so, the actual parties to this proceeding – the Plaintiffs and the Companies – chose to privately settle their matter. And yet, the Newspapers continue to insist on public disclosure. In their attempt to satisfy their curiosity about the terms of that private settlement, the Newspapers now claim that a Rule of Civil Procedure designed to protect minors' interests gives the Newspapers the right to pry into the parties' settlement and review how the minors and their guardians chose to resolve a private matter. The Newspapers' manipulation of the Rules and the Court cannot be permitted.

The Newspapers' mere curiosity in this private matter is in no way protected by the First Amendment or the common law of this Commonwealth. Rather, allowing the Newspapers access to the terms of a confidential settlement reached by private parties, violates the settling parties' right to privacy, deprives the parties of their right to contract, and will chill potential resolution of matters by mutual agreement rather than through litigation at the parties' and the public's expense.

FACTS AND PROCEDURAL HISTORY

The Plaintiffs, Stephanie and Chris Hallowich, commenced this action on May 27, 2010, by filing a writ of summons. The Hallowiches named the Companies and the Pennsylvania Department of Environmental Protection ("DEP") as defendants. No complaint was ever filed. The Hallowiches and the Companies ultimately resolved the action and entered into a negotiated settlement agreement in June 2011. The settlement agreement contains a confidentiality clause, collaboratively drafted and consented to by all parties in order to protect the interests of the

Hallowiches and Companies in preventing public disclosure of the terms of their private agreement. Following execution of the settlement, the Hallowiches filed a praecipe to discontinue the action on July 11, 2011 and voluntarily dismissed the action

The settlement agreement included the Hallowiches' minor children Pursuant to Pennsylvania Rule of Civil Procedure 2039 and Washington County Local Rule 2039.1, the Hallowiches filed a Motion to Approve Settlement of Minor's Action on July 28, 2011 ("Settlement Motion") The Settlement Motion generally outlines the confidential terms of the parties' settlement agreement to inform the Court pursuant to Rule 2039 On the same day, the Hallowiches and the Companies jointly moved to seal the Settlement Motion ("Joint Motion to Seal") to prevent disclosure of confidential terms disclosed in the Settlement Motion

The Court heard these motions on August 23, 2011. Although the Court's order, as reflected in the docket, states that a hearing on the Settlement Motion and Joint Motion to Seal was "to be held 08-26-2011", the Hallowiches unilaterally rescheduled the hearing for three days earlier because the Hallowiches' counsel had a scheduling issue. The Companies were informed by the Hallowiches' counsel on Friday, August 19, 2011 that the hearing would take place on August 23, 2011 Despite no order rescheduling the hearing to the August 23, 2011 date and time, two reporters from the Post-Gazette were nonetheless waiting in the courtroom prior to the commencement of the hearing See Newspapers' Brief, p 5, fn.3 ("Intervenors are not aware of any order of the court that re-scheduled the hearing for August 23, 2011"). The Court moved the hearing into chambers and the reporters orally objected. The Court granted the Settlement

Motion and approved the settlement on behalf of the Hallowich children. The Court also granted the Joint Motion to Seal and sealed the court file.²

On August 31, 2011, the Post-Gazette, through its attorneys, filed a Petition to Intervene and Motion to Unseal the Record. The Observer filed a similar Petition to Intervene on September 13, 2011.

Counsel for the Newspapers and the Companies appeared before the Court on October 4, 2011, to address the Petitions to Intervene. At that time, the Court raised its concern that intervention by the Newspapers was improper because the case had been settled and discontinued before the Petitions to Intervene were filed. Therefore, the Court requested and the parties provided supplemental briefing on the threshold issue of whether the “proposed intervenors can properly proceed under the Pennsylvania Rules of Civil Procedure.”

The Hallowiches filed, on November 14, 2011, an Emergency Petition for Limited Unsealing of the Record and For a Ruling On the Parties’ Settlement Agreement and Release (“Emergency Petition”). The trial court held a hearing regarding the Emergency Petition on January 31, 2012. Counsel for the Newspapers attended that proceeding contending that they had a right to participate. The trial court rejected and denied the Emergency Petition because it was not verified by the Hallowiches as required by the Pennsylvania Rules of Civil Procedure and therefore was defective.

On January 31, 2012, after the Newspapers and the Companies addressed the timeliness of the Petitions to Intervene, the Court denied the Petitions because “[t]he Petition to Intervene

² As reflected on the docket, the Hallowiches and the Companies only sought to seal the Settlement Motion by filing the Joint Motion to Seal. They did not seek to seal the entire record.

and the Motion to Unseal the Record is not proper under the Pennsylvania Rules of Civil Procedure.” The Newspapers filed separate appeals from that order. On December 7, 2012, the Superior Court vacated the Court’s denial of the Newspapers’ Petitions and remanded the case back to the Court to rule on the merits. Indeed, the decision to allow intervention and the decision to allow access to a sealed record are both vested in the sound discretion of the trial court. *In re Estate of DuPont*, 2 A 3d 516, 521 (Pa. 2010) (“[A] request to seal or unseal judicial records is a matter committed to the discretion of the common pleas court.”), *see also* *Commonwealth v. Frattarola*, 485 A.2d 1147, 1155 (Pa. Super. 1984) (“the decision as to public access must rest in the sound discretion of the trial court”).

ARGUMENT

A. The Newspapers Cannot Meet the First Amendment Test For Access.

1. The Settling Parties’ Right to Privacy Outweighs the Newspapers’ Curiosity.

The Newspapers claim a First Amendment right to access the Settlement Petition. Although the “First Amendment to the United States Constitution embraces the right of access to civil trials. .” *See Publicker Ind., Inc. v. Cohen*, 733 F.2d 1059, 1073 (3d Cir. 1984); *see also* *PA Childcare LLC v. Flood*, 887 A.2d 309, 311-12 (Pa. Super. 2005), *Storms v. O’Malley*, 779 A.2d 548, 569 (Pa. Super. 2001), it “does not grant to the news media a right of access to judicial proceedings and records which is greater than the right of access enjoyed by the general public.” *Frattarola*, 485 A.2d 1154-55.

Furthermore, the Newspapers’ claimed First Amendment right to access in this settled matter cannot overcome the settling parties’ right to privacy. The Commonwealth of Pennsylvania has long protected its citizens from invasions into private matters.

[T]he right of privacy is a well-settled part of the jurisprudential tradition in this Commonwealth, we are mindful, as ever, to avoid unjustified intrusions into the private zone of our citizens' lives. We must bear in mind, however, that the right is not an unqualified one, it must be balanced against weighty competing private and state interests.

Stenger v Lehigh Valley Hospital Center, 609 A 2d 796, 800 (Pa 1992)

The right to privacy arises in several aspects of the Pennsylvania Constitution. Article 1, Section 1 provides that "All men are born equally free and independent, and have certain inherent and inalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness." Pa. Const Article 1, § 1, *see Denoncourt v Pennsylvania State Ethics Comm*, 470 A 2d 945, 948 (Pa 1983) (holding that it is a violation of privacy "in the nature of freedom from disclosure of personal matters" to force family members' of public officials to file financial interest statements). Article 1, Section 8 of the Pennsylvania Constitution also protects citizens from unwarranted intrusions into personal matters. "The right to be free from unreasonable searches and seizures under Article 1, Section 8 of the Constitution, Pa Const art 1, § 8, 'is tied into the implicit right to privacy in this Commonwealth.'" *Commonwealth v DeJohn*, 402 A 2d 1283, 1291 (Pa. 1979) (holding that bank customers have a reasonable expectation of privacy in "records pertaining to their affairs kept at the bank"). Thus, Pennsylvania jurisprudence protects various zones of privacy including such matters as avoiding disclosure of personal matters, independence in making important decisions, as well as the fundamental right to be left alone.³

See Stenger supra.

³ "Mr Justice Brandeis has ably described the right of privacy and its relation to our sustained viability as free and healthy individuals as follows:

While the Supreme Court of the United States has applied varying levels of scrutiny when analyzing the level of protection afforded these and other privacy interests, the Pennsylvania Supreme Court has not been so flexible. "Under the law of this Commonwealth only a compelling state interest will override one's privacy rights " *Stenger*, 609 A 2d at 802. The Pennsylvania Supreme Court in *Denoncourt* explained –

The government's intrusion into a person's private affairs is constitutionally justified when the government interest is significant and there is no alternate reasonable method of lesser intrusiveness to accomplish the governmental purpose. Thus, it may be said that government's intrusion into a person's private affairs is constitutionally justified when the government interest is significant and there is no alternate reasonable method of lesser intrusiveness to accomplish the governmental purpose. Whether there is a significant state interest will depend, in part, on whether the state's intrusion will effect its purpose, for if the intrusion does not effect the state's purpose, it is a gratuitous intrusion, not a purposeful one.

Id at 949

Here, the settling parties' right to be left alone must be protected. The parties made a decision to enter into a private, out-of-court settlement agreement. The Newspapers have failed to set forth any compelling government interest for violating the parties' right to privacy in this matter. Instead, the Newspapers can only rely on their curiosity.

The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. *They conferred, as against the government, the right to be let alone -- the most comprehensive of rights and the right most valued by civilized men "*

Denoncourt, 470 A.2d at 948-949, citing *Olmstead v United States*, 277 U S 438, 478, (1928) (Dissenting Opinion of Mr. Justice Brandeis) (emphasis in original).

The only reason the settling parties came before the Court was for the protection of the minors in this private settlement as required by Pennsylvania Rule of Civil Procedure 2039⁴. The Newspapers cannot be permitted to undermine the purpose of Rule 2039 – protection of minors’ interests – to satisfy their curiosity in the details of the parties’ private settlement. The Newspapers seek to use Rule 2039 as a vehicle to intrude into the settling parties’ private decision to enter into a settlement agreement. The Superior Court’s Opinion admonished the Newspapers’ manipulation of Rule 2039 highlighting the trial court’s statement that “if the children weren’t involved, you would have marked it settled and discontinued and no one would have been the wiser.” Superior Court Opinion, p. 12, fn. 10. Thus, the Court must heed the instruction of the Superior Court and refuse the Newspapers’ a right to pry into parties’ private settlements involving minors.

The Newspapers’ Brief devotes a great deal of time to discussing the media’s coverage of the Hallowiches. The Newspapers’ appear to argue that because they previously covered the Hallowiches’ and Companies’ dispute as part of a news story, that this somehow enlarges their right to access the Settlement Motion. This is not the case. The Hallowiches, and for that matter the Companies’ statements to the media, and the media’s coverage of the Hallowiches do not trump the settling parties’ right to enter into a private and confidential settlement agreement. No matter what level of media attention has been given to the Hallowiches or the Companies, this does not justify the Newspapers’ attempt to manipulate the Rules of Civil Procedure and the courts of this Commonwealth so that they can discover the terms of this private agreement.

⁴ Pa. R.C.P. 2039(a) states “No action to which a minor is a party shall be compromised, settled or discontinued except after approval by the court pursuant to a petition presented by the guardian of the minor.”

The Newspapers' argument that access should be granted because "this case has a wide ranging impact on issues related to natural gas drilling" and that "this action is of even greater import as the citizens of the Commonwealth are guaranteed the 'right to clean air [and] pure water. .'" is completely unfounded. Newspapers' Brief, p. 12-13. The Hallowiches initiated this action by writ, never filing a complaint or setting forth causes of action supported by factual allegations. The parties thereafter settled their dispute. It borders on ridiculous for the Newspapers to argue that they are trying to protect the "right to clean air and pure water" by seeking the terms of a private settlement agreement. It should be more than obvious to the Newspapers that settlements do not admit claims, they resolve disputes. And this private settlement of this dispute has no impact on the environmental regulation of the natural gas industry or the citizens of the Commonwealth.

Moreover, it is the DEP that is charged with regulating the oil and gas industry – not the Newspapers. As reported in the articles attached to the Newspapers' Brief, DEP conducted tests of the Hallowiches water and did not identify any environmental concern or need for further investigation. Newspapers' Brief, Ex. E. In the end, the Newspapers are left only with their curiosity and desire to publish another article unfairly portraying the natural gas industry. The settling parties' constitutionally protected right to privacy cannot give way to the Newspapers' agenda.

2. The Settling Parties' Right to Enforce a Legal Obligation Must Be Protected

Not only does the settling parties' right to privacy outweigh any right of access the Newspapers may have here – the right of access recognized by the First Amendment is not absolute. Indeed, "there are certain exceptions to the presumptive openness of judicial proceedings." *Publicker*, 733 F.2d at 1070. In this regard, limits on access are to "serve an

important government interest.” *Id* For instance, “where there is a binding contractual obligation not to disclose certain information which to the court seems innocuous but newsworthy, in that situation unbridled disclosure of the nature of the controversy would deprive the litigant of his right to enforce a legal obligation ” *Id* at 1073-74

Here, there is an overriding interest that trumps any right of access in the instant matter to the Settlement Motion and related terms of the parties’ confidential settlement agreement – preserving litigants’ rights to enter into private, confidential settlement agreements to resolve disputes A ruling allowing the media access to a settlement agreement whenever a minor is involved, despite confidentiality provisions in the agreement negotiated and agreed to by the parties, would deprive litigants of their right to enforce a legal obligation – here confidentiality *See Publiker supra*, at 1074 (holding that “[i]n the absence of other considerations, *such as an enforceable confidentiality agreement*, federal courts should not deny access to trial evidence of a bad business practices . . .”) (emphasis supplied) The Hallowiches’ and the Companies’ right to enter into a private and confidential settlement agreement trumps the Newspapers’ curiosity in following up on a story

Contrary to the Newspapers’ assertions, the holding in *Storms v O’Malley*, 779 A 2d 548 (Pa. Super. 2001), does not preclude minor litigants from entering into private, confidential settlement agreements In *Storms*, the issue before the court was whether the parties’ oral settlement agreement to the underlying medical malpractice action brought on behalf of the minor-plaintiff contained a provision of confidentiality The court concluded that because confidentiality was “never an essential term of the settlement agreement,” plaintiffs’ refusal to execute the release and confidentiality clause did not void the settlement. *Id* at 568 The Newspapers seize upon one footnote in *Storms* which explains that confidentiality could not be

an “essential term of an agreement to settle a minor’s claim, since settlement of a minor’s claim requires court approval. Thus, sealing of the record in the case of a minor’s settlement is not a *pro forma* matter that is automatically performed upon the agreement of the parties, but rather, is permitted only upon analysis and approval by the court.” *Id.* at 568, n. 12

However, the footnote explanation in *Storms* is superfluous to its holding that confidentiality was never an essential term of the parties’ oral agreement, and is, therefore, *dicta* and not binding upon the Court. *See Commonwealth v. Singley*, 868 A.2d 403, 407 (Pa. 2005) (“[A] statement in [a] prior opinion, which clearly was not decisional but merely *dicta*, is not binding upon us”) (internal citations omitted). Moreover, the footnote also does not preclude confidentiality of all settlement agreements involving minors. Indeed, *Storms*’ *dicta* makes clear that sealing of the record in a case involving a minor’s settlement is not a *pro forma* matter. .” but rather requires court approval. *Storms*, 779 A.2d at 568 n. 12

In the instant matter, the Hallowiches and the Companies agreed that confidentiality was an essential term of their settlement agreement. Different from *Storms*, there was no disagreement about this essential term. Both sides executed a settlement agreement to that effect. In addition, the parties jointly moved to seal the Settlement Motion, containing certain confidential terms, which the Court approved. Thus, to the extent this portion of *Storms* has any binding effect, the Hallowiches and Companies obtained court approval.

The Newspapers argue that the Hallowiches’ failure to object to the Petitions to Intervene and Unseal the Record amounts to their support of the Newspapers’ attempt to open the record. This argument is illogical. The Hallowiches executed the confidential settlement agreement and then joined in the Joint Motion to Seal prior to presenting their Settlement Motion. These

actions alone establish that the Hallowiches and Companies agreed to maintain their settlement confidential

The court's decision in *Beaver v McColgan*, 11 Pa D&C 4th 97 (Ct Com. Pl. Columbia C'ty 1990) explicitly rejects the Newspapers manipulation of Rule 2039 to undermine settling parties' right to maintain a confidential settlement agreement. In *Beaver*, the trial court refused to unseal information related to a confidential settlement agreement filed in connection with Rule 2039 for approval as to a minors' settlement. The court reasoned, among other things, that

[I]t should be noted that if a minor *were not a party* to this action, the amicable settlement could have been reached *without the filing of any documents*. If a summons or pleading had been filed prior to settlement where no minor was involved, the case could have been discontinued by the parties without the filing of the settlement documents.

Id. at 102-103 (emphasis supplied), *see also* Superior Court Op, p 12, fn 10 (highlighting the trial court's statement that "if the children weren't involved, you would have marked it settled and discontinued and no one would have been the wiser.") The *Beaver* court also noted that confidentiality as to the terms of the settlement agreement was a "key ingredient" in its finalization and execution, and that the parties were entitled to rely on those confidentiality provisions and comply with Rule 2039 without compromising this confidentiality. *Id.* at 102. Based on these findings, the court denied the newspaper's petition to unseal the settlement agreement.⁵ *See Storms*, 779 A 2d at 555 ("The agreement to settle in a minor's action comes

⁵ Although not binding on the Court, the decision in *Minneapolis Star & Tribune Co v Schumacher*, 392 N W 2d 197 (Minn 1986) is particularly informative given the similar nature of the issue before the Court. The court, in denying the media access to settlement agreements filed with the court, reasoned that

The fact that the settlements here today were required by statute to be brought before the court does not destroy the historical fact that settlements have been private agreements

into existence prior to the court's approval and it is only the court's disapproval of the terms of the agreement to settle that would permit a party to be released from its obligations thereunder ")

As in *Beaver*, confidentiality is a "key ingredient" of the settlement agreement reached by the parties. Also as in *Beaver*, the only reason that information contained in the settlement agreement was ever revealed was to obtain approval for the minors' settlement. As reasoned by the *Beaver* court, it would be absurd to render all confidentiality provisions in settlement agreements null and void to the extent a minor's claims are involved. The interest in adult and minor litigants' ability to ensure the confidentiality of their settlement agreements clearly outweighs the Newspapers' right of access to a settlement agreement when it happens to involve a minor.

3. Denial of the Newspapers' Request Supports Judicial Economy.

The parties to the underlying matter have long resolved their dispute by privately settling without the need to burden the courts. Yet, the Newspapers' Petitions, manipulating a Rule of Civil Procedure designed to protect minors, seek to reopen this settled and discontinued matter so that it can follow up on a story. The Commonwealth's strong public policy interest in encouraging settlements does not permit the Newspapers' continued litigation of this settled matter.

Voluntary settlement of civil controversies is in high judicial favor. Judges and lawyers alike strive assiduously to promote amicable adjustments of matters in dispute, as for the most wholesome of reasons they certainly should. When the effort is successful, the

not subject to public scrutiny. Similarly, the intent of Minn. Stat. § 540.1 in requiring court approval of settlements involving minors is to protect minors, not to expose these settlements to the public.

Id. at 205

parties avoid the expense and delay incidental to litigation of the issues, the court is spared the burdens of a trial and the preparation and proceedings that must forerun it

Rothman v Fillette, 469 A.2d 543, 546 (Pa. 1983) (citing *Autera v Robinson*, 419 F.2d 1197, 1199 (D.C. Cir. 1969))

The Settlement Motion must remain sealed to encourage the Commonwealth's strong policy of voluntary settlements. If the Settlement Motion in this case is unsealed, after the settling parties agreed to confidentiality and sealing of that motion, future disputes involving minors and confidential terms will undoubtedly be discouraged. Thus, a ruling refusing to unseal the records here will protect the parties' right to privacy, their legal obligations under the settlement agreement and the Commonwealth's strong public interest in encouraging settlements, particularly where minors' interests are involved.

B. The Newspapers Cannot Meet the Common Law Test For Access.

"[T]here exists a common law right of access to judicial proceedings and inspection of judicial records, but... the right is not absolute, as the public may, in the trial court's discretion, be excluded from such proceedings or records to protect public or *private interests*." *In re Estate of DuPont*, 2 A.3d 516, 519 (2010) (emphasis supplied), *see also Stenger v Lehigh Valley Hospital Center*, 554 A.2d 954, 960 (Pa. Super. 1989). The common law right of access to judicial records only arises "provided that [the party seeking disclosure] has an interest therein for some useful purposes and not for *mere curiosity*." *Hutchinson by Hutchinson v Luddy*, 611 A.2d 1280, 1290 (Pa. Super. 1992) (citation omitted; emphasis supplied). Furthermore, where the court has previously sealed the record, as is in the instant matter, the burden "rest[s] upon the party seeking access to demonstrate good cause, explaining that 'those seeking to maintain the situation of closure do not have to prove the need over again.'" *In re Estate of Dupont*, 2 A.3d at

520 (internal citation omitted). Thus, it is the Newspapers' burden to demonstrate that the records should be unsealed

The Newspapers cannot meet the "good cause" standard to alter the trial court's closure order. The common law right to access is not absolute and the public may be excluded to "protect. private interests." As discussed above, the settling parties' right to privacy in this matter is indisputable. The Newspapers must be stopped from using the courts of this Commonwealth to invade into the Hallowiches' and the Companies' private decision to settle a dispute, so that they can continue a story line that is simply over. The Newspapers, by torturing the purpose of Rule 2039, seek to unjustifiably intrude into this area of privacy. This sense of entitlement is prohibited by the Constitution and common sense.

Furthermore, as discussed more fully above the settling parties' right to enforce a contractual obligation far outweighs the curiosity of the Newspapers here. *See Publicker, Beaver, supra*. Indeed, a ruling denying the Newspapers' request to unseal protects the parties' privacy interests, leaves intact their legal obligation under the settlement agreement and reinforces the interest of judicial economy. Thus, the Newspapers' "mere curiosity" in the terms of the private settlement agreement are insufficient to modify the Court's order.

C. Because The Settlement Motion Is Not a Judicial Record The Newspapers Have No Right to Access It.⁶

⁶ Three special interest groups and a number of individuals seek leave to file a Brief of *Amici Curiae* ("AC Brief") in this matter. As set forth in more detail in our Answer in Opposition, the Motion for Leave to file the AC Brief should be denied since the Pennsylvania Rules of Civil Procedure do not permit the filing of amicus briefs at the trial court level. Should the Court accept the AC Brief, several points must be made about the assertions therein.

The AC Brief regularly attacks the natural gas industry as using "various laws and litigation tactics to impede development of information on the industry." AC Brief at 3. *See e.g. id.* at 9-10 ("gas industry routinely obstructs access to information relevant to the industry's health effects"); *id.* ("some routine practices of the gas industry stand in the way of developing

To the extent any right of access exists here, it is only for "judicial" documents. See *Stenger*, 554 A.2d at 960-961 (holding that "private documents collected during discovery are not judicial records. [because] discovery is essentially a private process"). Similarly, the *Hallowiches and Companies* chose to negotiate a private settlement agreement, an inherently private process. As discussed in more detail above, the contents of the Settlement Motion are

and distributing information on these public health risks"). When one reads the complaints asserted, however, it is clear the practices that *amici* criticize are nothing more than those companies operating in compliance with applicable state and federal laws which do not require disclosures of the information that *amici* seek. See, e.g., *AC* Brief at 10 ("Congress exempted the injection of hydraulic fracturing fluids from the Safe Drinking Water Act"), and *id.* at 11 ("[i]f these exemptions did not exist, natural gas companies would have to disclose additional information about their operations"). It is evident that *amici* disagree with these laws. They are asking this Court to ignore those policy determinations. This the Court may not do. If *amici* disagree with those laws, their efforts should be directed toward the legislatures, not the courts.

Amici also complain that the industry shields matters from the public by limiting disclosures by confidentiality agreements during discovery and nondisclosure terms in settlement agreements. *AC* Brief at 15 ("companies routinely have protective orders and companies insist on confidentiality and nondisclosure as terms of any settlement"). Our court rules allow for protective orders during discovery for any party, if warranted. See, e.g., Pa. R.C.P. 4012 (protective order requires "good cause"). *Amici* have attached to their brief Exhibit B which purports to document "the Uses of Confidentiality and Nondisclosure Agreements in Tort Cases Alleging Injuries from Unconventional Gas Development." *AC* Brief, Ex. B. In six of the 27 listed cases there was no order prohibiting public dissemination of information in the court file. In another eight cases, it is "unknown" if there was any prohibition on disclosure. In two other cases, *amici* "presume" that the settlements are confidential. So, in more than half of the cases that *amici* list, there is no demonstration that anything was kept from the public. Suggesting a greater number is misleading, at best.

Finally, it must be noted the "settlements" referred to by *amici*, see, e.g., *AC* Brief at 15, are not dictated unilaterally but are agreements between the parties. Here, the *Hallowiches* settled their claims and agreed to keep the terms of their settlement confidential. Though *amici* argue that the *Hallowiches* have not joined the *Companies* in defending the sealing order issued in this case, they fail to note that the *Hallowiches* joined in the motion to seal the record of the settlement in the first instance. Their counsel advised the trial court that they were taking no position on the Newspapers' Petitions to Intervene and Motion to Unseal. These omissions, too, are misleading.

part of this private process which does not give rise to the type of judicial record that may be subject to access

Not only is the Settlement Motion inherently private in nature, but it was only filed to satisfy the requirements of Rule 2039. The involvement of the court in a motion to approve a minor's settlement pursuant to Rule 2039 is much different than what is required to create a "judicial" document. For example, the court in *Bank of America National Trust & Savings Assoc v Hotel Rittenhouse Assocs*, 800 F.2d 339 (3d Cir. 1986), held that a settlement agreement became a judicial record because the parties "utilize[d] the judicial process to interpret the settlement and to enforce it. . ." *Id.* at 345.

Here, the court was not asked to interpret or enforce the parties' settlement agreement. Rule 2039 does not call on the judiciary to interpret or enforce a settlement agreement, rather the guardian of the minor provides "all relevant facts and the reasons why the guardian of the minor believes that a settlement is desirable and in the minor's best interest to discontinue, compromise, or settle the action." *Klein v Cissone*, 443 A.2d 799, 802 (1982), quoting *Dengler by Dengler v Crisman*, 516 A.2d 1231, 1233 (1986) ("The agreement to settle in a minor's action comes into existence prior to the court's approval and it is only the court's disapproval of the terms of the agreement to settle that would permit a party to be released from its obligations thereunder.") In this regard, the court utilizes its "judicial discretion", see *Klein supra*, and performs a "ministerial function in overseeing settlements involving minors to the extent it approves or disapproves disbursement, counsel fees and reasonable expenses. It is not a mechanism to undermine or discount a mutually agreed upon settlement." *Auger v Children's Hospital of Philadelphia*, 42 Pa. D. & C.4th 372, 379 (1999), appeal quashed sub nom *Auger v Norwood*, 747 A.2d 406 (Pa. Super. 1999), allowance of appeal denied, 753 A.2d 814 (Pa. 2000).

(emphasis in original). As the court noted in *Storms*, Rule 2039 “does not provide for exceptions to be filed to a petition to approve the settlement of a minor’s claim ” *Id.* at 556 n. 7 “[T]he purpose of the rule is not necessarily to resolve any dispute that may arise between the parties who negotiated the terms of the settlement [and] the settlement is enforceable against the ‘negotiators’ without court approval ” *Id.* at 556 Thus, the Newspapers should be denied access to the Settlement Motion

The Newspapers also take the outrageous step and assert that not only are they entitled to the Settlement Motion, which the Companies’ expressly deny for all the reasons set forth above, but that they are also entitled to “every detail of the settlement” agreement – a document that was not even filed with the Court Newspapers’ Brief, p. 17 The Newspapers’ have absolutely no basis to assert any rights *vis a vis* documents never before the Court.⁷ Such documents are purely private See *Bank of America supra*, *Enprotech Corp v Renda*, 983 F.2d 17, 20-21 (3d Cir. 1993) (denying access to a confidential settlement agreement because it “has remained completely confidential, has never been filed with the district court, and has never been interpreted or ordered enforced by the district court Moreover, the Agreement will not become a part of the public record unless and until the district court may order the parties to comply with its terms ”); see also *Pansy v Borough of Stroudsburg*, 23 F.3d 772, 780-783 (3d Cir. 1994) (where settlement agreement is not filed in court, confidentiality order related to settlement agreement does not convert settlement agreement into a judicial record subject to any right of

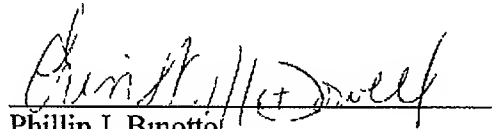
⁷ As confirmed by the Court during a January 31, 2012 hearing – in which the Court denied all relief sought in the Hallowiches’ Emergency Petition because it was not verified – “. I don’t need the [settlement] agreement. I don’t want – the agreement doesn’t need to be in this file ...” Moreover, the Court stated “All of you have been very careful with regard to what you have filed based on whatever your agreement is, so I’d like to just leave it that way at this point ”

access by the public) Thus, to the extent that the Newspapers seek access to any documents never filed in this matter, including the settlement agreement, there is absolutely no authority for such a demand and it must be denied

CONCLUSION

Based upon the foregoing, the Court should deny the Newspapers' Petitions to Intervene and the Motions to Unseal the Record.

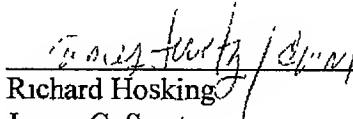
Respectfully submitted,



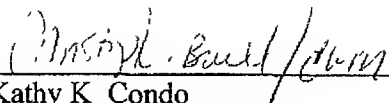
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CERTIFICATE OF SERVICE


I hereby certify that a true and correct copy of the foregoing **Brief in Opposition to Motion to Unseal** was served on the following individuals by United States mail this 16th day of January 2013

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IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH AND CHRIS
HALLOWICH, H/W,

Plaintiffs,

v.

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, LP, MARKWEST ENERGY
GROUP, LLC,

Defendants.

Docket No. 2010-3954

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ORDER OF COURT

AND NOW, on this 17 day of Jan, 2013, upon consideration of the
Motion for Leave to File an *Amici Curiae* Brief and the accompanying Brief of *Amici Curiae*, it
is hereby ordered, adjudged, and decreed that the motion is GRANTED, and the proposed Brief
of *Amici Curiae* is hereby ACCEPTED FOR FILING with this Court.

BY THE COURT

ENTRY OF ~~OPINION, ORDER, DECREE,~~
ADJUDICATION OR JUDGMENT FILED

1-24-13

MAILED

1-24-13

CERTIFICATE OF SERVICE

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C. Fitch ESQ.

I, Charles McPhedran, Esq., hereby certify that a true and correct copy of the foregoing
Notice of Presentation, Motion for Leave to File *Amici Curiae* Brief, and proposed Order
granting the Motion were served upon the following, this 7th day of January, 2013, via Federal
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BEFORE: OLSON, OTT, and FITZGERALD,* JJ.

MEMORANDUM BY FITZGERALD, J.:

FILED: December 7, 2012

Observer Publishing Company, d/b/a Observer-Reporter ("The Observer-Reporter") and PG Publishing Company ("The Post-Gazette") (collectively "Appellants") each appeal from the orders entered in the Washington County Court of Common Pleas denying their petitions, on untimeliness grounds, to intervene in the underlying hydraulic fracturing ("fracking") matter and to unseal the record.¹ For ease of disposition we address these two appeals together.² Appellants, who are both in the business of publishing daily newspapers, seek to unseal a settlement agreement between the homeowner-plaintiffs and fracking companies-defendants. We vacate and remand for the court to rule on the merits of Appellants' petitions.

The parties of the underlying matter are plaintiffs Stephanie Hollowich and Chris Hallowich, husband and wife ("Plaintiffs"), and defendants Range

* Former Justice specially assigned to the Superior Court.

¹ An order denying a petition to intervene is "final and appealable under the collateral order rule embodied in Pa.R.A.P. 313." **PA Childcare LLC v. Flood**, 887 A.2d 309, 310 n.1 (Pa. Super. 2005) (citation omitted).

² A joint *amici curiae* brief was filed by: the Philadelphia Physicians for Social Responsibility; Physicians, Scientists, and Engineers for Healthy Energy; Earthworks, and several individuals. This brief cites water and air pollution and health risks caused by shale gas development, and advocates **unsealing** the record, to "improve transparency about gas operations and their health effects." *Amici Curiae* Brief at 3, 5.

Resources Corporation, Williams Gas/Laurel Mountain Midstream, Markwest Energy Partners, L.P., Markwest Energy Group, LLC, (collectively, "Defendants") and the Pennsylvania Department of Environmental Protection ("DEP"). The DEP "has not taken part in this litigation in any way." Trial Ct. Op., 4/2/12, at 2. For purposes of this appeal, we refer to all of the defendants, with the exception of the DEP, collectively as "Appellees"; they have filed a joint appellee's brief.

Plaintiffs commenced this matter on May 27, 2010, by filing a praecipe to issue a writ of summons. "The lawsuit concerns fracking in and around Plaintiffs' property by Defendants, and Plaintiffs were vocal critics of the fracking process during the pendency of this litigation."¹ *Id.* at 1. One year later, the parties reached a settlement agreement, which bound not only Plaintiffs, but also their minor children. The trial court summarized:

Because minor children were involved, [on July 28, 2011,] Plaintiffs filed a Petition for Approval of Settlement of Minors' Actions in accordance with Pa.R.C.P. 2039 and Washington County Local Rule of Court 2039.1. "The settlement agreement contains express confidentiality provisions, collaboratively drafted and consented to by both parties, which are designed to protect Plaintiffs' and Defendants' interest in prevent public disclosure of the terms of their private agreement to resolve this case."

Id. at 2 (citations to record omitted).

On August 11, 2011, Appellees filed a joint motion for a scheduling order for a "hearing in closed court or in chambers" to hear Plaintiffs' petition for approval of the minors' settlement agreement. Joint Mot. for

Scheduling Order, 8/11/11, at 1. The motion specifically requested a hearing date of "August 24, 2011, or as soon thereafter as suits the convenience of the Court." *Id.* at 3. An un-stamped scheduling order, dated August 11th, appears in the certified record; a handwritten note, "Hearing to be held August 26, 2011, at 11:00 a.m." appears at the bottom. The trial docket includes one entry for both the scheduling motion and order, which states, "Hearing to be held 08-26-2011, at 11:00 A.M."

Despite the order, the trial court held a settlement conference in chambers on August **23**, 2011. The court's opinion stated, "The settlement conference was rescheduled at the request of the parties to August 23, 2011." Trial Ct. Op. at 2. However, neither the trial docket nor certified record indicates any request for, or notice of, the change in date. On the date of the hearing, "[t]wo reporters identified themselves as being from the Pittsburgh Post-Gazette and requested to join the in chambers settlement conference; that request was denied by the Court."³ *Id.* at 2. Appellees

³ The record does not indicate how the reporters learned of the hearing. Furthermore, The Post-Gazette avers in its brief that a court official denied the reporters' request to enter the chambers, but informed them "that the Post-Gazette's objections had been noted in the official record by the trial court." Post-Gazette's Brief at 8 (citing Appellants' Joint Brief in Support of Pet. to Intervene and Mot. to Unseal Record). The only indication in the certified record of the reporters' objection is in the trial court opinion, as we have summarized above.

filed a joint motion to seal the record,⁴ which the trial "court signed and filed **that same day** at the specific request of all the parties." *Id.* (emphasis added). Two weeks later, on September 6th,⁵ The Post-Gazette filed a petition to intervene and unseal the record. On September 13th, The Observer Reporter also filed a petition to intervene and joined The Post-Gazette's motion to unseal the record. The petitions invoked the Pennsylvania Constitution's provision, "All courts shall be open," and the United States Constitution First Amendment's right of access to civil proceedings. *See* U.S. Const. Amend. I; Pa. Const. Art. I, § 11.

On October 4, 2011, the court held a hearing on Appellants' petitions to intervene and unseal the entire record. The court *sua sponte* raised the issue of the timeliness of the petitions and directed all parties to brief this issue. At another hearing on January 31, 2012, the court denied Appellants' petitions⁶ on the ground that they were untimely under Pennsylvania Rule of

⁴ We note that Appellees did not seek sealing of just the settlement agreement, but the entire record.

⁵ The trial court stated, "Seven weeks later, on August 31, 2011, Appellant Pittsburgh Post-Gazette filed a Petition to Intervene and Unseal the Record." Trial Ct. Op. at 2. However, both the "filed" time-stamp on the face of the petition and the trial docket indicate this petition was filed on September 6th, which was two weeks after the hearing.

⁶ In the interim, Plaintiffs had filed an emergency petition for limited unsealing of the record and for a ruling on the parties' settlement agreement. The court also denied this petition at the January 31, 2012 hearing.

Civil Procedure 2327,⁷ as the case was no longer "pending." Trial Ct. Op. at 6. Both Appellants timely appealed, and both complied with the court's order to file a Pa.R.A.P. 1925(b) statement. Appellants' issues overlap, and we consider them together.

In The Observer-Reporter's first issue, it avers that in denying its petition to intervene, the trial court failed to determine first "whether it had a legitimate interest in opening the record, and to "articulate[] why it was appropriate to seal the record or stated what alternatives to closure it considered." Observer-Reporter's Brief at 10. The Observer-Reporter cites the United States Constitution First Amendment and Pennsylvania

⁷ Pennsylvania Rule of Civil Procedure 2327, "Who May Intervene," provides:

At any time during the pendency of an action, a person not a party thereto shall be permitted to intervene therein, subject to these rules if

(1) the entry of a judgment in such action or the satisfaction of such judgment will impose any liability upon such person to indemnify in whole or in part the party against whom judgment may be entered; or

(2) such person is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof; or

(3) such person could have joined as an original party in the action or could have been joined therein; or

(4) the determination of such action may affect any legally enforceable interest of such person whether or not such person may be bound by a judgment in the action.

Pa.R.C.P. 2327(1)-(4).

Constitution, Article I, Section 11 presumption of openness in judicial proceedings, as well as the common law requirement for a party to show his interest in secrecy outweighs the traditional presumption of openness. It then reasons the "court violated the spirit of the procedural rules and the case law on media intervention," citing to Rule of Civil Procedure 126, which provides for the liberal construing of the Rules of Civil Procedure. *Id.* at 12-13.

In The Observer Reporter's second issue, it alleges the trial court erred in denying its petition on untimeliness grounds under Rule 2327. Instead, it avers, "[a] request by the media to intervene and open judicial proceedings is proper even after the record is sealed and even if the underlying proceeding is over."⁸ Observer-Reporter's Brief at 13. The Observer Reporter also states, "The appellate courts have recognized that it is often the case that the need for public access will not be apparent until such time as an underlying case is concluded." *Id.* (citing ***Commonwealth v. Frattarola***, 485 A.2d 1147 (Pa. Super. 1984) (plurality)). It further maintains, "Pennsylvania law clearly vests a newspaper with a First Amendment right to file a Petition to Intervene to access public records and

⁸ The Observer Reporter does not cite to legal authority to support this principle of law, but instead refers to a range of four pages in its own joint brief in support of the motion to intervene.

judicial proceedings.”⁹ *Id.* at 15.

On appeal, the Post-Gazette first avers “the oral objection of the Post-Gazette reporters [at the August 23, 2011 settlement hearing] was sufficient to raise their Constitutional and common law rights to an open proceeding.” Post-Gazette’s Brief at 16. The Post-Gazette also maintains that at the settlement hearing, “the court official . . . assured the reporters [their oral objections] would be put on the official record.” *Id.* Furthermore, it reasons that the court erred in finding *Commonwealth v. Buehl*, 462 A.2d 1316 (Pa. Super. 1983), did not apply on the ground that *Buehl* involved criminal pretrial proceedings. Instead, The Post-Gazette contends, “The trial court’s interpretation ignores [that] well-settled Constitutional and common law rights of access to judicial records . . . apply with equal force to both criminal and civil proceedings.” Post-Gazette’s Brief at 17.

In its second issue, The Post-Gazette further alleges the court erred in denying its petition on untimeliness grounds under Rule 2327. It claims, “Case law is clear . . . that where the media seeks to intervene to open a judicial record, the action remains ‘pending’ as applied to Pa.R.C.P. 2327 because the order continues to impact the Constitutional and common law

⁹ The Observer-Reporter also asserts: (1) the court erred in ignoring the “important detail” that the DEP was a named defendant; and (2) when Plaintiffs filed their emergency petition to open the record in November 2011, “it is clear that the case was no longer ‘concluded.’” Observer-Reporter’s Brief at 16, 17. Because of our disposition, we do not consider these claims.

rights of the media.” *Id.* at 19. Like The Observer Reporter, The Post-Gazette also argues that the court erred in finding Plaintiffs’ filing of their emergency petition did not render the proceedings “pending.” *See id.* at 24-25. Finally, in its third issue, The Post-Gazette asserts that Appellees’ settlement agreement was a judicial record subject to access and no party could rebut the presumption of openness. *Id.* at 27.

We first note:

We review a trial court’s decision to grant or deny access to judicial proceedings under an abuse-of-discretion standard. “Our courts have recognized a constitutional right of public access to judicial proceedings based on Article I, Section 11 of the Pennsylvania Constitution, which provides that ‘all Courts shall be open.’” Pa. Const. art. I, § 11. The right of public access to judicial proceedings has an independent basis in the common law as well as in the United States Constitution. Accordingly, Pennsylvania has a mandate for open and public judicial proceedings in both the criminal and civil settings.

* * *

There are two methods for analyzing requests for closure of judicial proceedings, each of which begins with a presumption of openness—a constitutional analysis and a common law analysis. Under the constitutional approach, which is based on the First Amendment of the United States Constitution and Article I, Section 11 of the Pennsylvania Constitution, the party seeking closure may rebut the presumption of openness by showing that closure serves an important governmental interest and there is no less restrictive way to serve that interest. Under the common law approach, the party seeking closure must show that his or her interest in secrecy outweighs the presumption of openness.

PA ChildCare LLC, 887 A.2d at 311-12 (some citations omitted).

In the instant matter, the trial court denied both Appellants' petitions to intervene on the ground that they were untimely under Rule 2327. As stated above, that rule provides that "a person not a party thereto shall be permitted to intervene" "[a]t any time during the **pendency** of an action[.]" Pa.R.C.P. 2327 (emphasis added). Here, the trial court found Appellants' petitions were not filed during the "pendency" of the underlying action, but instead **after** the case settled. Trial Ct. Op. at 5.

The trial court rejected both Appellants' reliance on **Frattarola**, 485 A.2d 1147, because in that case, members of the media objected to the closure of a pre-trial criminal hearing, and thus did so during the pendency of the matter. **See Frattarola**, 485 A.2d at 1148; Trial Ct. Op. at 6. The court also distinguished the federal case of **Pansy v. Borough of Stroudsburg**, 23 F.3d 772 (3d. Cir. 1994), upon which both Appellants relied. The trial court reasoned that in **Pansy**, there was no federal rule analogous to Pennsylvania Rule of Civil Procedure 2327, and thus the **Pansy** Court "did not determine . . . that the media had the absolute right to file an untimely petition to Intervene." Trial Ct. Op. at 7.

We agree with the trial court that Appellants' petitions to intervene and to unseal the record were not filed during the "pendency" of the matter, as required by Rule 2327, as the matter had been settled. **See Inryco, Inc. v. Helmark Steel, Inc.**, 451 A.2d 511, 513 (Pa. Super.1982) (holding case is no longer pending under Pa.R.C.P. 2327 upon settlement because

settlement decree binds parties with same effect as final decree). However, we agree with The Observer Reporter's argument that in this matter, the trial court should have applied Rule 2327 liberally pursuant to Rule 126.

Rule 126 provides:

The rules shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable. The court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties.

Pa.R.C.P. 126.

We emphasize that the only information about this matter available to the public was the trial docket, which stated the hearing was scheduled for "08-26-2011, at 11:00 A.M." Docket, at 5. Furthermore, the docket paraphrased Appellees' joint motion for a hearing and stated their requested date of "Wednesday, 08-24-2011, or as soon thereafter as suits the convenience of the court." *Id.* The docket, however, included no information that the court would instead hold the hearing earlier—not only three days before the date stated in its scheduling order, but also one day before the date requested by Appellees. In addition, we note Appellees sought to seal the entire record, and not just the settlement agreement, and the court granted Appellees' joint motion to seal the record on **the same day** it was filed.

We agree with the Observer-Reporter's reasoning that it "had no interest [in the underlying action] which would justify intervention until the

record was sealed." **See** Observer-Reporter's Brief at 13. In light of all the foregoing, we hold the court should have liberally construed Rule 2327 and accepted as timely filed both Appellant's petitions to intervene and to unseal the record. Accordingly, we vacate the court's denials of the petitions, remand for the court to rule on the merits of the petitions, pursuant to **PA ChildCare LLC** and relevant authority. The court may request briefs and hold hearings.¹⁰

Orders vacated. Case remanded with instructions. Jurisdiction relinquished.

Ott, J. files a Concurring and Dissenting Memorandum.

Judgment Entered:

Eleanor R. Valecko
Deputy Prothonotary

DATE: December 7, 2012

¹⁰ We note the court's advice to Plaintiffs' counsel at the January 31, 2012 hearing: "Candidly, if the children weren't involved, you would have just marked it settled and discontinued and no one would have been the wiser." N.T., 1/31/12, at 10-11.

J-A26036-12

STEPHANIE HALLOWICH AND
CHRIS HALLOWICH, H/W

V.

APPEAL OF: OBSERVER PUBLISHING
COMPANY D/B/A OBSERVER-REPORTER,
PROPOSED INTERVENOR

No. 234 WDA 2012

Appeal from the Order Entered January 31, 2012
In the Court of Common Pleas of Washington County
Civil Division No(s).: C-63-CV-201003954

V.

RANGE RESOURCES CORPORATION,
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM, MARKWEST ENERGY
PARTNERS, L.P., MARKWEST ENERGY
GROUP, LLC AND PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

APPEAL OF: PG PUBLISHING COMPANY,
PROPOSED INTERVENOR

No. 235 WDA 2012

Appeal from the Order Entered January 31, 2012
In the Court of Common Pleas of Washington County
Civil Division No(s).: C-63-CV-201003954

BEFORE: OLSON, OTT, and FITZGERALD,* JJ.

CONCURRING AND DISSENTING MEMORANDUM BY OTT, J.:

FILED: December 7, 2012

I agree the Appellants have an absolute right to a hearing on their motions to unseal the record. However, I respectfully disagree with the majority's determination that intervention pursuant to Pa.R.C.P. No. 2327 is the basis for granting a hearing on unsealing the record of the minor's compromise.

Neither Appellant had the right to intervene in the petition for a minor's compromise prior to the hearing under any section of Rule 2327. Furthermore, the proposed liberal reading of Pa.R.C.P. No. 126 to allow a post-hearing petition to intervene pursuant to Rule 2327(4) is convoluted and unnecessary.

In Pennsylvania, the common law, the first amendment to the United States Constitution, and the Pennsylvania Constitution, all support the principle of openness. "All courts shall be open." Pa. Const. Art. I, § 11. More than one basis for the public right of access to civil trials has been articulated. Nonetheless, the presumption of public access is rebuttable.

Storms ex rel. Storms v. O'Malley, 779 A.2d 548, 568 -569 (Pa. Super. 2001) (internal citations omitted). The trial court has the power to seal the official record in certain circumstances.

* Former Justice specially assigned to the Superior Court.

Every court has supervisory powers over civil proceedings in progress before it and may deny access where such access may become a vehicle for harmful or improper purposes. See: *Nixon v. Warner Communications, Inc.*, *supra*, 435 U.S. [589,] at 598, 98 S.Ct. [1306,] at 1312, 55 L.Ed.2d [570,] at 580. Thus, the public may be "excluded, temporarily or permanently, from court proceedings or the records of court proceedings to protect private as well as public interests: to protect trade secrets, or the privacy and reputations [of innocent parties], as well as to guard against risks to national security interests, and to minimize the danger of an unfair trial by adverse publicity."

Hutchison by Hutchison v. Luddy, 611 A.2d 1280, 1290 (Pa. Super. 1992).

Therefore, I agree with the majority that this case be remanded to the trial court for a hearing on the merits of the Appellants' motions to unseal the record.



Superior Court of Pennsylvania

Western District

Karen Reid Bramblett Esq
Prothonotary
Eleanor R. Valecko
Deputy Prothonotary

310 Grant Street, Suite 600
Pittsburgh, PA 15219 2297
(412) 565-7592
www.superiorcourt.state.pa.us

CERTIFICATE OF REMITTAL/REMAND OF RECORD

TO Ms Matheny
Prothonotary

RE Hallowich, S v Range Resources
234 WDA 2012
Trial Court Washington County Court of Common Pleas
Trial Court Docket No C-63-CV-201003954

2013 JAN 28 AM 9:50

Annexed hereto pursuant to Pennsylvania Rules of Appellate Procedure 2571 and 2572 is the entire record for the above matter

Original Record contents:

Item	Filed Date	Description
Original Record	April 10, 2012	2 Parts
Transcript	April 25, 2012	1
Supp Record	April 25, 2012	1 Part

Additional Item(s): SUPERIOR COURT MEMORANDUM

Remand/Remittal Date 01/24/2013

ORIGINAL RECIPIENT ONLY - Please acknowledge receipt by signing, dating, and returning the enclosed copy of this certificate to our office Copy recipients (noted below) need not acknowledge receipt

Very truly yours,

Eleanor R. Valecko
Deputy Prothonotary

/bni

Enclosure

cc Kathy Kay Condo, Esq
Colin Emerson Fitch, Esq
Frederick N Frank, Esq
Robert B Hoffman, Esq

cc Erin Windle McDowell, Esq
Charles McPhedran, Esq
The Honorable Paul M Pozonsky, Judge
James Christopher Swetz, Esq
Peter M Villari, Esq

Hallowich, S v Range Resources
234 WDA 2012

Letter to Ms Phyllis Ranko Matheny

Acknowledgement of Certificate of Remittal/Remand of Record (to be returned):

Phyllis Ranko Matheny
Signature

1-28-2013
Date

PHYLLIS RANKO MATHENY, PROTHONOTARY
~~My Term Expires First Monday in January, 2016~~
Printed Name

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

STEPHANIE HALLOWICH and CHRIS
HALLOWICH, H/W,

Plaintiffs,

v.

RANGE RESOURCES CORPORATION;
WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM; MARKWEST ENERGY
PARTNERS, L.P.; MARKWEST
ENERGY GROUP, L.L.C.; and
PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Defendants.

No. 2010-3954

ENTRY OF OPINION, ORDER, DECREE,
ADJUDICATION OR JUDGMENT FILED 3-20-13

MAILED _____

TO _____

OPINION AND ORDER

The matter before this Court stems from an August 23, 2011 Order that sealed the record in the underlying action from public view. Since that date, two newspapers, the *Pittsburgh Post-Gazette* and the *Observer-Reporter*, have sought to unseal that record. The PG Publishing Company filed a Petition to Intervene and Motion to Unseal Record (September 6, 2011) and the Observer Publishing Company¹ filed a Petition to Intervene and Joinder in said Motion to Unseal Record (September 13, 2011). Range Resources Corporation; Williams Gas/Laurel Mountain Midstream; MarkWest Energy Partners, L.P.; and MarkWest Energy Group, L.L.C.² opposed those Motions but did not carry their burden in that regard. All parties proceeded as if the Petitions to Intervene had been granted; thus, same are granted, and this Opinion considers the Motions to Unseal Record. An evidentiary hearing was set for January 18, 2013, where the

¹ This Opinion refers to the PG Publishing Company and Observer Publishing Company collectively as "the Press".

² This Opinion refers to Range Resources Corporation; Williams Gas/Laurel Mountain Midstream; MarkWest Energy Partners, L.P.; and MarkWest Energy Group, L.L.C. collectively as "the Defendants".

Praeceptum for Discontinuance. Hence, the parties settled⁵ this matter without the Plaintiffs filing a complaint.⁶

Pursuant to Pennsylvania Rule of Civil Procedure 2039,⁷ the parties requested a hearing to approve their settlement agreement before former-judge Paul Pozonsky,⁸ because it impacted

⁵ The DEP did not enter into this settlement agreement and, given its lack of participation, has no further interest in this matter. Plaintiffs' Petition for Approval of Settlement of Minors' Action Pursuant to Pa.R.C.P. 2039 and Local Rule 2039.1, 7/28/11, at 2.

⁶ The Hallowiches' counsel drafted a would-be complaint and made it a part of this Court's record as Exhibit A to Plaintiffs' Petition for Approval of Settlement of Minors' Action Pursuant to Pa.R.C.P. 2039 and Local Rule 2039.1. That 41-page document, if served, would have added the Hallowiches' minor children as plaintiffs and Mt. Pleasant Township, its Board of Supervisors, its Planning Commission, and its Zoning Hearing Board as defendants. Plaintiffs' Petition for Approval etc., 7/28/11, Ex. A at 1. The complaint alleged eleven counts against the various defendants arising from statutory violations and tort law. *Id.* at 16, 18, 19, 22, 23, 25, 28, 29, 31, 33, and 36. The Plaintiffs would have prayed for a wide variety of relief at law and in equity, including, *inter alia*, compensatory and punitive damages, an injunction against drilling in and around their realty, and Writs of Mandamus to the DEP and Mt. Pleasant Township commanding them to regulate and police the Defendants. *Id.* at 38-41.

⁷ Pennsylvania Rule of Civil Procedure 2039 provides:

(a) No action to which a minor is a party shall be compromised, settled or discontinued except after approval by the court pursuant to a petition presented by the guardian of the minor.

(b) When a compromise or settlement has been so approved by the court, or when a judgment has been entered upon a verdict or by agreement, the court, upon petition by the guardian or any party to the action, shall make an order approving or disapproving any agreement entered into by the guardian for the payment of counsel fees and other expenses out of the fund created by the compromise, settlement or judgment; or the court may make such order as it deems proper fixing counsel fees and other proper expenses. The balance of the fund shall be paid to a guardian of the estate of the minor qualified to receive the fund, if the minor has one or one is to be appointed. The balance of the fund payable to the guardian of the estate may include a structured settlement underwritten by a financially responsible entity that assumes responsibility for future payments or a trust as described in subdivision (b)(4) of this rule. If the minor has no such guardian and none is to be appointed, the court may order:

(1) an amount not more than twenty-five thousand dollars (\$25,000.00) to be paid for the benefit of the minor to the guardian of the person or to the natural guardian or to the person or agency by whom the minor is maintained or to the minor;

(2) any amount in cash of a resident or non-resident minor to be deposited in one or more savings accounts in the name of the minor in banks, building and loan associations, savings and loan associations or credit unions, deposits in which are insured by a Federal governmental agency, provided that the amount deposited in any one such savings institution shall not exceed the amount to which accounts are thus insured, or in one or more accounts in the name of the minor investing only in securities guaranteed by the United States government or a Federal governmental agency managed by responsible financial institutions. Every such order shall contain a provision that no withdrawal can be made from any such account until the minor attains majority, except as authorized by a prior order of the court. Proof of the deposit shall be promptly filed of record;

Id., PROPOSED ORDER at 1.

Below the signature line, in handwriting, appears the phrase, "HEARING TO BE HELD _____ AT _____" *Id.* Into those blanks is then written, in a different hand and ink, the words "August 26, 2011" and "11:00 a.m." *Id.* Taken together, the addendum to the [Proposed] Scheduling Order reads, "HEARING TO BE HELD August 26, 2011 AT 11:00 a.m." *Id.* Thus, the Order appeared to schedule the hearing on both August 24, 2011 and August 26, 2011.

Instead, the settlement hearing was held on August 23, 2011 – *prior* to either date in the Order. Opinion Pursuant to Pennsylvania Rule of Appellate Procedure 1925(a), 4/2/12, at 2. Nothing appears of record to request that the hearing be conducted sooner, and the August 11, 2011 [Proposed] Scheduling Order was not vacated. Even so, reporters from the Pittsburgh Post-Gazette appeared on August 23, 2011 and requested admittance into the *in camera* hearing, which was denied. *Id.* The record was sealed that day.

The Press filed their respective petitions and Motions to Unseal, which were denied by a January 31, 2012 Order, as untimely under Pennsylvania Rule of Civil Procedure 2327.⁹ They appealed. The Superior Court of Pennsylvania vacated that Order and remanded to this Court

⁹ Pennsylvania Rule of Civil Procedure 2327 provides:

At any time during the pendency of an action, a person not a party thereto shall be permitted to intervene therein, subject to these rules if

- (1) the entry of a judgment in such action or the satisfaction of such judgment will impose any liability upon such person to indemnify in whole or in part the party against whom judgment may be entered; or
- (2) such person is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof; or
- (3) such person could have joined as an original party in the action or could have been joined therein; or
- (4) the determination of such action may affect any legally enforceable interest of such person whether or not such person may be bound by a judgment in the action.

At first blush, this quote from an unanimous Supreme Court of Pennsylvania would seem to overrule *PA ChildCare LLC*, but it is out of context and a misrepresentation of the case. The statement is not *duPont*'s holding. It is from Justice Saylor's recitation of the procedural posture, and his analysis begins three pages later. The Justice's unabridged quote is:

Additionally, and of particular relevance, the Superior Court recognized that a request to open records previously sealed by court order presents a distinct issue from whether records of proceedings should be sealed in the first instance. Noting that this constitutes an issue of first impression in Pennsylvania, the court referenced federal cases and a legal encyclopedia for guidance, ultimately concluding that there are no grounds for an automatic reopening of a previously-sealed record. Hence, the court found the burden to rest upon the party seeking access to demonstrate good cause, explaining that "those seeking to maintain the situation of closure do not have to prove the need over again." *Id.* at 639 (citing, *inter alia*, *F.D.I.C. v. Ernst & Ernst*, 677 F.2d 230, 232 (2d Cir.1982)

In re Estate of duPont, *supra.*, 573, 519 (2010).

An orphans' court sealed the *duPont* record, which concerned an incapacitated person's estate. *Id.*, 569, 517. A third party, claiming to be a beneficiary of an estate-created trust, sought information as to whether he had a cause of action against that estate. *Id.* He appeared nearly a decade after the record had been sealed pursuant to 20 Pa. C.S. § 5511(a).¹⁶ *Id.* The Press, unlike the *duPont* petitioner, expressed interest in this case prior to the sealing of the record.

¹⁶ 20 Pa. C.S. § 5511(a) provides:

(a) **Resident.**—The court, upon petition and hearing and upon the presentation of clear and convincing evidence, may find a person domiciled in the Commonwealth to be incapacitated and appoint a guardian or guardians of his person or estate. The petitioner may be any person interested in the alleged incapacitated person's welfare. The court may dismiss a proceeding where it determines that the proceeding has not been instituted to aid or benefit the alleged incapacitated person or that the petition is incomplete or fails to provide sufficient facts to proceed. Written notice of the petition and hearing shall be given in large type and in simple language to the alleged incapacitated person. The notice shall indicate the purpose and seriousness of the proceeding and the rights that can be lost as a result of the proceeding. It shall include the date, time and place of the hearing and an explanation of all rights, including the right to request the appointment of counsel and to have counsel appointed if the court deems it appropriate and the right to have such counsel paid for if it cannot be afforded. The Supreme Court shall establish a uniform citation for this purpose. A copy of the petition shall be attached. Personal service shall be made on the alleged incapacitated person, and the contents and terms of the petition shall be explained to the maximum extent possible in language and terms the individual is most likely to understand. Service shall be no less than 20 days in advance of the

In addition, *duPont* involved a legislative modification of the common-law test and is legally distinguishable. Again, from Justice Saylor, the actual holding of *duPont*:

Here, by contrast, and as discussed, *the common law presumption of public access has been modified by the General Assembly in the context of incapacitation proceedings* in an effort to protect the rights of individuals with regard to personal information that could be damaging if exposed publicly. Moreover, Appellant has not articulated any basis to believe that private financial, medical, and psychiatric records—items that would ordinarily become part of the record of the proceedings on a Section 5511(a) petition—become less private or sensitive over time, or otherwise lose their potential to subject the incapacitated person or his family to embarrassment or possible harassment, especially where significant financial assets are being managed. *Compare In re Widener's Estate*, 437 Pa. 294, 296, 263 A.2d 334, 335 (1970) (approving an orphans' court rule permanently impounding the testamentary writings of an individual adjudged incompetent as protective of his privacy rights), *with PA ChildCare LLC v. Flood*, 887 A.2d 309, 312 (Pa.Super.2005) (recognizing that the need for openness in judicial proceedings is especially pronounced in actions pertaining to the use of public funds and contracts with public entities).

Id. 579, 523 (emphasis added).

The Supreme Court of Pennsylvania recognized the differences between *duPont* and *PA ChildCare LLC*. The case that Defendants rely upon to shift the burden upon the Press is legally irrelevant and factually distinguishable. The burden remains upon Defendants to demonstrate grounds for closure, *i.e.*, some harm that will befall them if the record is unsealed.

The grounds to rebut the presumption of openness are “to protect trade secrets, or the privacy and reputations [of innocent parties], as well as to guard against risks to national security interests, and to minimize the danger of an unfair trial by adverse publicity.” *Hallowich, supra.*, 3, *quoting Hutchinson by Hutchison v. Luddy*, 417 Pa.Super. 93, 112, 611 A.2d 1280, 1290 (Pa. Super. 1992). Nothing of record divulges those enumerated grounds, because there are no facts concerning them. The record contains only unproven – and unanswered – allegations.

Having produced no evidence to rebut the presumption of openness under the common law, Defendants have failed to oppose the Press' Motions to Unseal the Record under *PA*

January 18, 2013 Court Recording at 10:55.26 A.M. The state constitutional issue before this Court is therefore limited to the privacy rights of the Defendants. Moreover, this Court reads the word “parties” in Defendants’ Brief to mean only them, unless the context clearly indicates both them and the Plaintiffs.

In advancing interpretations of the Constitution of the Commonwealth of Pennsylvania – especially novel ones – “it is important that litigants analyze at least the following four factors:

- 1) text of the Pennsylvania constitutional provision;
- 2) history of the provision, including Pennsylvania case-law;
- 3) related case-law from other states;
- 4) policy considerations, including unique issues of state and local concern, and applicability within modern Pennsylvania jurisprudence.”

Commonwealth v. Edmunds, supra., 390, 895 (1991). Cautiously, the Supreme Court of Pennsylvania also allows that “an examination of related federal precedent may be useful as part of the state constitutional analysis, not as binding authority, but as one form of guidance.” *Id.* Defendants failed to put forth an *Edmunds* analysis.¹⁸ However, examining their claims to a right of privacy under *Edmunds*’ factors is essential for a meaningful, state-constitutional review.

Although Defendants ground their claimed right of privacy in Article I of Pennsylvania’s constitution (specifically, sections 1 and 8), they made no attempt to parse those texts or to construe them in light of the full document. Those sections provide:

§ 1. Inherent Rights of Mankind

All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and

¹⁸ Such a failure was originally fatal to a state-constitutional claim. See *Commonwealth v. Peterfield*, 609 A.2d 540 (Pa. Super. 1992) (not briefing factors in *Commonwealth v. Edmunds*, 526 Pa. 374, 586 A.2d 887 (Pa. 1991), results in the waiver of constitutional issue). It no longer is, but “we reaffirm [the *Edmunds* factors]’ importance and encourage [their] use. In other words, *Edmunds* expresses the idea that it may be helpful to address the concerns listed therein, not that these concerns must be addressed in order for a claim asserted under the Pennsylvania Constitution to be cognizable.” *Commonwealth v. White*, 543 Pa. 45, 50, 669 A.2d 896, 899 (1995).

webster.com/dictionary/mankind, 3/7/13). Through Article I, § 28,²⁰ the people of this Commonwealth extended legal rights, including those in Article I, § 1, to women, as well as men. Consequently, women and men come into this world with “certain inherent and inalienable rights,” either expressed in the constitution or implied from its enumerated rights. Pa. Const. Art. 1, § 1.

There are no men or women defendants in the instant case; they are various business entities. Range Resources Corporation²¹ is a corporation; Williams Gas/Laurel Mountain Midstream and MarkWest Energy Group, L.L.C. are limited-liability companies; and MarkWest Energy Partners, L.P. is a limited partnership. These are all legal fictions, existing not by natural birth but by operations of state statutes. For example, Range Resource Corporation is a publicly traded, Texas-based corporation, formed under the laws of Delaware. See 8 Del. C. § 101, *et seq.* Such business entities cannot have been “born equally free and independent,” because they were not *born* at all. Indeed, the framers of our constitution could not have intended for them to be “free and independent,” because, as the creations of the law, they are always subservient to it.

The various states, via acts of their legislatures, allow for business entities to exist but are not required to establish them. In the absence of state law, business entities are nothing. Once created, they become property of the men and women who own them, and, therefore, the constitutional rights that business entities may assert are not coterminous or homogeneous with the rights of human beings. Were they so, the chattel would become the co-equal to its owners,

²⁰ Article I § 28 of the Constitution of the Commonwealth of Pennsylvania provides, “Equality of rights under the law shall not be denied or abridged in the Commonwealth of Pennsylvania because of the sex of the individual.”

²¹ Throughout its filings in this matter, Range Resource Corporation repeatedly drops footnotes highlighting the fact that the Hallowiches incorrectly identified it. It claims to do no business within the Commonwealth of Pennsylvania and that its subsidiary, Range Resource – Appalachia L.L.C., should have been the named defendant. Even if this is so, it is a distinction without a difference, because a limited-liability company is treated like other business entities under the Constitution of the Commonwealth of Pennsylvania.

Not only did our framers know how to employ the names of business entities²² when and where they wanted them (as the above text demonstrates), they used those words to subjugate business entities to the constitution. Unlike “[a]ll men (and women),” who are “born equally free,” Pa. Const. Article I, § 1, the framers permitted the Commonwealth to revoke, amend, and repeal “[a]ll charters of private corporations” and any “powers, *rights*, duties or liabilities” of corporations. Pa. Const. Article X, § 3 (emphasis added). Thus, the constitution vests in business entities no special rights that the laws of this Commonwealth cannot extinguish. In sum, Defendants cannot assert the protections of Article I, § 1, because they are not mentioned in its text.²³

As for the Defendants’ claims of protection under Article I, § 8, again, the “people”, not business entities, are the subject of its initial clause. If the framers had intended this section to shield corporations, limited-liability corporations, or limited partnerships, this Court presumes that they could and would have used those words. The plain meaning of “people” is the living, breathing humans in this Commonwealth.²⁴

²² For example, unlike the Constitution of the United States wherein the word “corporation(s)” never appears, the framers of the Constitution of the Commonwealth of Pennsylvania wrote that word 23 times. All such uses limit corporations; none grants them rights. See Pa. Const. Article III, § 18 (statutes of limitations in civil cases may not be shorter for corporations than for other defendants); Article III, § 29 (appropriations to “denominational and sectarian” corporations prohibited); Article III, § 31 (corporation cannot be delegated governmental functions); Article III, § 32 (no special law shall create a corporation or amend, renew, or extend a corporation’s charter); Article V, § 17 (judicial officers may not hold office in municipal corporations); Article VIII, § 2(b)(iii) (General Assembly may exempt charitable corporations from taxation); Article VIII, § 6 (power to tax corporations cannot be surrendered or suspended by contract); Article VIII, § 8 (corporation cannot be creditor to the Commonwealth; Commonwealth cannot own a corporation) Article VIII, § 17 (Commonwealth may provide aid to corporations harmed by acts of God in the early and mid-1970’s); Article IX, § 9 (local governments cannot own a corporation); *sand* Article X (private corporations subordinate to the Commonwealth and its laws).

²³ The Defendants have not asserted their rights under the federal constitution, and whatever privacy rights they may have under it are waived. That said, this Court knows of no case where the federal courts have extended the right to privacy under the Constitution of the United States to business entities.

²⁴ This Court is not asked, and so it does not now say, that the people who work in the offices of a business entity forgo their rights to be free from unreasonable searches and seizures at the office door. On the contrary, the second, independent clause of that section, beginning “no warrant to search any place....” would seem sufficiently broad enough to require probable cause for a search of those people’s workplaces. Pa. Const. Article I, § 8.

within subsequent constitutions has varied.²⁶ See The Preparatory Committee for the Constitutional Convention, *Ref. Manual No. 2: Constitutions of Pennsylvania; Constitution of the United States* [Harrisburg 1967]. In the Constitution of 1790, “the bill of rights remained unchanged, for these were issues on which liberals and conservatives were agreed.” *Ref. Manual No. 3, supra.*, at 5. The 1838 version of “the Bill of Rights was carried over verbatim from the Constitution of 1790.” *Ref. Manual No. 1, supra.*, at 4. The Constitution of 1873 contained only a few revisions to Article I, which did not impact sections 1 or 8. See *Ref. Manual No. 3, supra.* Finally, the only alteration made to those sections at the 1967-1968 convention was the replacement of the word “Natural” in section 1’s title with “Inherent”. *Ref. Manual No. 2, supra.*, at 11. Given that all of the conventions subsequent to 1776 reincorporated Article I, §§ 1, 8 virtually unchanged, this Court’s interpretation of those sections is properly informed by the 1776 framers’ legislative-intent in authoring those provisions.

The majority of the 1776 constitutional convention delegates was comprised of poorer Pennsylvanians from the agrarian, western counties, because that convention had been called by the “provincial conference of the committees of correspondence,” which suspected the wealthier Philadelphians of holding British loyalties. *Ref. Manual No. 3, supra.*, at 1. Thus, the constitution they created “was one of the most liberal and influential” of the new nation. *Ref. Manual No. 1, supra.*, at 2. Dr. Benjamin Franklin presided over that convention, and his theories on government, as well as those of William Penn, greatly influenced the delegates. *Id.*

In 1682, Pennsylvania, like all American colonies, began as a business venture on behalf of the Crown: *i.e.*, as a proprietorship under Penn’s absolute control, in which “some 600 investors bought shares.” Randall M. Miller and William Pencak, *Pennsylvania: A History of*

²⁶ In the 1790 convention, the declaration of rights was moved to the end, as Article IX, and the prohibition against unreasonable searches and seizures became the declaration’s eighth section. *Id.* at 205-207. The 1837 convention restored the declaration of rights as the constitution’s initial pronouncements in Article I. *Id.* at 11.

laws of England, could not divest its settlers of their rights under that law. But nothing in his writings on liberty suggests that Penn thought that those rights inured to businesses.

Penn also had a strong respect for privacy of the individual, as a crucial ingredient of true happiness and enjoyment of life. He viewed that privilege as redounding to the common person, as opposed to rulers and "Grandeens...For they live least alone: And they that must be enjoyed by every Body, can never enjoy themselves as they should. It is the Advantage little Men have upon them; they can be Private." William Penn, *Some Fruits of Solitude* at 349 (1693, reprinted 1965 by the P.F. Collier & Son Corp.). It is hard to conceptualize the business entities now at bar as the "little Men" to whom Penn was referring. In fact, he viewed himself and his own proprietorship over the colony as lacking such privacy:

Hardly any Thing is given us for our Selves, but the Publick may claim a Share with us. But of all we call ours, we are most accountable to God and the Publick for our Estates: In this we are but Stewards, and to Hord up all to ourselves is great Injustice as well as Ingratitude.

William Penn, *More Fruits of Solitude* at 390 (1702, reprinted 1965 by the P.F. Collier & Son Corp.). It is highly improbable that Penn founded Pennsylvania with an eye towards securing liberty for business entities or to grant them a right of privacy.

An even more dubious proposition is that the framers of the Constitution of 1776, given their egalitarian sympathies, would have concerned themselves with vesting, for the first time in history, indefeasible rights in such entities. This Court has found no documentation from the era indicating that they were so inclined. Moreover, given that a majority of the delegates who authored Article I were farmers from the young Commonwealth's frontier,²⁹ with little or no ties

²⁹ The committee to essay a declaration of rights at the Constitutional Convention of 1776 was comprised of Owen Biddle (City of Philadelphia), Col. John Bull (Philadelphia County), the Rev. William Vanhorn (Bucks County), John Jacobs (Chester County), Col. George Ross (Lancaster County), James Smith (York County), Jonathan Hoge (Cumberland County), Jacob Morgan (Berks County), Col. Jacob Stroud (Northampton County), Col. Thomas Smith (Bedford County), Jacob Martin (Northumberland County), and John Moore (Westmoreland County). *The Proceedings Relative to Calling the Conventions of 1776 and 1790*, Minutes of the Convention of 1776, at 45-48

office to disclose their financial interests, because it violated the due process clause. In Part II of the analysis, there is dicta that also found the act an impermissible invasion of the right of privacy; however (aside from being unnecessary, given the due-process holding in Part I) only three Justices joined Part II.³⁰ Thus, it was not a majority opinion and is not binding precedent.

Even if it were, the right of privacy was invoked to protect people, not businesses. In explaining the basis of the right, Justice Flaherty quoted Justice Brandeis' famous dissent in *Olmstead v. United States*, 277 U.S. 438, 48 S.Ct. 564 (1928):

The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the government, the right to be let alone – the most comprehensive of rights and the right most valued by civilized men.

Id. 572, 956 (Brandeis, J., dissenting).

It is axiomatic that corporations, companies, and partnership have no “spiritual nature,” “feelings,” “intellect,” “beliefs,” “thoughts,” “emotions,” or “sensations,” because they do not exist in the manner that humankind exists. Thus, the entire rationale underpinning Justice Brandeis' construction of the Constitution of the United States – and also, by his reliance upon it, Justice Flaherty's construction of our own – is simply inapplicable to them. They cannot be “let alone” by government, because businesses are but grapes, ripe upon the vine of the law, that the people of this Commonwealth raise, tend, and prune at their pleasure and need.

Stenger involved the privacy interests that AIDS victims have in their medical records. Obviously, such a claim was not, and never could be, asserted on behalf of businesses, because they do not have medical records. But from that case springs a progeny of privacy cases

³⁰ Chief Justice Roberts joined Part I of the opinion, Justice Hutchison concurred only in the result, and Justices Nix and Larsen dissented. That left Justices McDermott and Zappala to join in Part II of Justice Flaherty's opinion.

the word “people” prohibited such a construction. “Nowhere in the statutes of California or elsewhere have we found the word ‘people’ to be defined to include corporations.” *Id.* 793, 408.

The Supreme Court of Montana reached the same conclusion under its constitution, in a matter substantially similar to the one *sub judice*. *Great Falls Tribune v. The Montana Public Service Comm.*, 2003 MT 359, 319 Mont. 38, 82 P.3d 876 (2003), concerned a petition by the media to unseal the record of Montana’s equivalent of the Pennsylvania Utility Commission. An electrical company asserted its then-existing right of privacy under the Montana Constitution³² to prevent that disclosure. In overruling its prior precedents that recognized a business-entity right of privacy, Montana’s supreme court pointed out that it had previously “failed to engage in any meaningful [*sic*] language [*sic*] construction analysis or review of the Constitutional Convention history to determine whether the word ‘individual’ could reasonably be interpreted to include non-human entities such as corporations.” *Id.* P21, 45, 880.

Upon engaging in a meaningful, language-construction analysis, the court found that the recordings of the constitutional convention clearly revealed the drafters’ legislative-intent to deprive corporations and other businesses of any right of privacy. Delegate (and attorney) Dahood explained the phrase “individual privacy” to his non-lawyer colleagues. *Id.* P33, 48, 882. “A person...as you well know, [can] be defined to include a corporation under the law...An individual, in my judgment, would not be a corporation, no.” *Id.* Thus, the court held that “the state constitutional right of privacy is afforded only to natural human beings and not to

³² The Montana Constitution provides, in pertinent part:

The right of individual privacy is essential to the well-being of a free society and shall not be infringed without the showing of a compelling state interest.

Montana Constitution Article 2, § 10.

While clearly an emerging question in national jurisprudence, claims of a business-entity right of privacy have been discredited by the two courts that have directly considered it. This Court now joins them in rejection of this novel, state-constitutional theory.

Finally, the policy considerations under the *Edmunds* test need to be addressed. In Pennsylvania, textualism and originalism are only the starting points for determining a constitutional question. Ours is very much, what legal scholars call, a living constitution, for “it is necessary to go beyond the bare text and history of [a] provision as it was drafted 200 years ago, and consider its application within the modern scheme of Pennsylvania jurisprudence.” *Edmunds, supra.*, 402, 901. Therefore, the policy concerns that the Defendants raised to buttress their right-of-privacy claims are appropriate for this Court to weigh under its *Edmunds* inquiry.

Defendants argue that unsealing the record would negate nondisclosure language in settlement agreements. In essence, they advance the right of freedom to contract. For them, “there is an overriding interest that trumps any right of access,” *i.e.*, “preserving litigants’ rights to enter into private, confidential settlement agreements to resolve disputes.” Brief in Opposition to Motion to Unseal Record, 1/16/13, at 10.

They then turn to a judicial-economy argument. Defendants correctly note that, but for the Press’ intervention, this matter would be finished. They suggest that future litigants would be discouraged from entering settlements with minors, because Pa. R.C.P. 2039 would require them to disclose the terms of settlement to the court³³ and, through the court, to the public and press. *Id.* at 14. Thus, more cases that could be settled would go to trial.

Both of these contentions are without merit.

The proposition that nondisclosure language must be enforced is based upon a false presumption that this Court is somehow bound by the terms of the settlement agreement. The

³³ This Court notes that the settlement agreement herein was not made a part of the record. See FN 17, *supra*.

to serve as an impartial arbitrator of the settlement and to ensure that the guardians do not take unfair advantage of the minors.

Second, it is that arbitral function by the court that implicates and necessitates the Press' and public's right of access. The Press' investigative role is itself a constitutional and common-law bulwark, safeguarding the courts from lapsing into the clandestine abuses found in *PA ChildCare LLC*. It is not "mere curiosity" – as the Defendants contend. The assertion that creating a business-entity right of privacy would aid judicial economy is unconvincing and pales by comparison to the Press' and public's right of access.

Further, judicial economy will not necessarily be served by acquiescing to Defendants' invitation to manufacture a business-entity right of privacy. For example, if the parties had settled *prior* to the Hallowiches filing a writ, Rule 2039 would have been inapplicable to their property transaction,³⁴ and this Court would have had no record to unseal. Had they approached each other amicably, as opposed to adversatively, the instant civil action would have never existed. Perhaps, today's ruling will encourage future litigants to seek alternative means of dispute resolution before resorting to the very public forum of our courts. If anything, this Court's refusal to read a business-entity right of privacy into our constitution may well promote judicial economy in the long run.

Based upon all of the foregoing, this Court holds that the presumption of openness under the common-law rule of access to the courts, which the Defendants have not rebutted, demands that the August 23, 2011 Order be reversed. Furthermore, there is no business-entity right of privacy within the Constitution of the Commonwealth of Pennsylvania to prevent the operation of that rule. Accordingly, this Court enters the following:

³⁴ See Plaintiffs' Emergency Petition for Limited Unsealing of the Record and for a Ruling on the Parties' Settlement Agreement and Release, 11/14/2011.

To prevent the Controller from discovering its (and the judges') illegal activities, PA ChildCare sued Flood on December 17, 2004, and Conahan enjoined his investigation. *Id.* The judge sealed that record, too. *Id.* The Times Leader¹⁴ petitioned to intervene and challenged Conahan's order to seal the record, raising the same constitutional challenge and common-law right of access that the Press now assert. *Id.* Conahan summarily denied The Time Leader's petition without a hearing. *Id.*

In reversing and unsealing the record, the Superior Court of Pennsylvania employed "the constitutional analysis to determine whether ChildCare overcame the presumption of openness," because The Times Leader was "a newspaper seeking access on constitutional grounds to a matter involving public figures and public money." *Id.* 312. In other words, Conahan, by sealing a record involving elected officials, public funds, and the juvenile-justice system from both public and press, invited the highest degree of judicial scrutiny. The weightiness of those factors coalesced, compelling the court to address The Times Leader's constitutional rights.

Courts generally reach constitutional questions only after exhausting all other avenues of resolution. "The Court will not pass upon a constitutional question although properly presented on the record, if there is also present some other ground upon which the case may be disposed of." *Ashwander v. TVA*, 297 U.S. 288, 347, 56 S.Ct. 466, 483 (1936) (Brandeis, J., concurring). "Thus, if a case can be decided on either of two grounds, one involving a constitutional question, the other a question of statutory construction or general law, the Court will decide only the latter." *Id.*¹⁵ This Court's avoidance of constitutional issues stems from "the cardinal principle

¹⁴ Founded in 1879, The Times Leader publishes a daily newspaper and online news in Wilkes-Barre, Pennsylvania. The Times Leader, "Contact The Times Leader" (available at: <http://www.timesleader.com/section/contact/>, 2/28/13).

¹⁵ See also *Commonwealth v. Allsup*, 481 Pa. 313, 392 A.2d 1309 (1978) (constitutional questions are to be avoided when there exists other grounds for disposition of case).

Court of Common Pleas of Washington County
Commonwealth of Pennsylvania

Full Docket Print for Case #:

C-63-CV-201003954

Case Title: HOLLOWICH VS RANGE
Case Type: SUMMONS-CIVIL ACTION
Status: APPEALED

Party Details

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Commonwealth of Pennsylvania

Full Docket Print for Case #:

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Court of Common Pleas of Washington County
Commonwealth of Pennsylvania

Full Docket Print for Case #:

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Event Summary

Court of Common Pleas of Washington County
Commonwealth of Pennsylvania

Full Docket Print for Case #:

C-63-CV-201003954

05/27/2010 4581 4 SUMMONS-CIVIL ACTION

05/27/2010 4074 5 MOTION

TO STAY ALL RULES TO FILE COMPLAINT AND FOR LEAVE OF COURT TO CONDUCT PRE-COMPLAINT DISCOVERY IN THE NATURE OF INFORMATION AND DOCUMENT PRODUCTION FOR THE PURPOSE OF DRAFTING AND SERVING A SUFFICIENT COMPLAINT, AND MOTION TO STAY PROCEEDING FOR A SUFFICIENT PERIOD TO ALLOW PLTF. TO CONDUCT DISCOVERY BY THE PLTFs.

06/18/2010 4034 1 APPEARANCE OF

GAIL A. MYERS ASSISTANT COUNSEL FOR COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION.

06/21/2010 4034 1 APPEARANCE OF

KATHY K. CONDO, ESQ. ATTY FOR DEFT. WILLIAMS GAS/LAUREL MOUNTAIN MIDSTREAM. (NOTICE OF APPEARANCE)

06/25/2010 4034 1 APPEARANCE OF

ERIN MCDOWELL ATTY FOR MARK WEST ENERGY PARTNERS, L.P. AND MARK WEST ENERGY GROUP, L.L.C. (NOTICE OF APPEARANCE)

07/02/2010 4034 1 APPEARANCE OF

JAMES C. SWETZ OF THE LAW FIRM K&L GATES LLP ON BEHALF OF

07/02/2010 4034 2 APPEARANCE OF

RANGE RESOURCES CORPORATION ("RANGE RESOURCES"). RICHARD W. HOSKING OF THE LAW FIRM K&L GATES LLP ON BEHALF

OF THE DEFTS. RANGE RESOURCES CORPORATION ("RANGEN RE-SOURCES").

07/19/2010 4184 1 SERVED

WRIT OF SUMMONS & MOTION FOR PRE-COMPLAINT DISCOVERY ON RANGE RESOURCES CORPORATION ON 6-8-2010. SERVED MARK WEST ENERGY PARTNERS, L.P. AND MARK WEST ENERGY GROUP, L.L.C. ON

6-14-2010. SERVED PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION ON 6-10-2010 BY THE ALLEGHENY COUNTY SHERIFF'S

OFFICE. SERVED WILLIAMS GAS/LAUREL MOUNTAIN MIDSTREAM ON

6-16-2010 BY THE ALLEGHENY COUNTY SHERIFF'S OFFICE.

08/11/2010 4299 1 RESPONSE

IN OPPOSITION TO PLTFs.' MOTION TO STAY ALL RULES TO FILE

COMPLAINT AND FOR LEAVE OF COURT TO CONDUCT PRE-COMPLAINT

DISCOVERY IN THE NATURE OF INFORMATION AND DOCUMENT PRO-

DUCTION FOR THE PURPOSE OF DRAFTING AND SERVING A SUFFI-

CIENT COMPLAINT, AND MOTION TO STAY PROCEEDING FOR A

SUFFICIENT PERIOD TO ALLOW PLTF. TO CONDUCT DISCOVERY

BY MARK WEST ENERGY PARTNERS, LP AND MARK WEST ENERGY GROUP, LLC.

08/17/2010 4359 1 ORDER TO RECUSE JUDGE

THAT MOTION REASSIGNED TO: PAUL POZONSKY. SEE PAPER.

O'DELL SENECA, P.J.

08/20/2010 4289 1 BRIEF

IN SUPPORT OF MOTION TO STAY ALL RULES TO FILE COMPLAINT AND

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Full Docket Print for Case #:

08/20/2010 4289 1 BRIEF

FOR LEAVE OF COURT TO CONDUCT PRE-COMPLAINT
DISCOVERY IN
THE NATURE OF INFORMATION AND DOCUMENT
PRODUCTION FOR THE
PURPOSE OF DRAFTING AND SERVING A SUFFICIENT
COMPLAINT, AND
MOTION TO STAY PROCEEDING FOR A SUFFICIENT PERIOD
TO ALLOW
PLTFS. TO CONDUCT DISCOVERY BY PLTFS.

08/20/2010 4300 2 CERTIFICATE

OF SERVICE OF PLTFS.' BRIEF IN SUPPORT OF MOTION TO
STAY
ALL RULES TO FILE COMPLAINT AND FOR LEAVE OF COURT
TO
CONDUCT PRE-COMPLAINT DISCOVERY IN THE NATURE OF
INFORMA-
TION AND DOCUMENT PRODUCTION FOR THE PURPOSE OF
DRAFTING
AND SERVING A SUFFICIENT COMPLAINT, AND MOTION TO
STAY
PROCEEDING FOR A SUFFICIENT PERIOD TO ALLOW PLTFS.
TO
CONDUCT DISCOVERY UPON GAIL A. MYERS, ESQ. VIA FIRST
CLASS
MAIL ON 8-19-2010.

08/27/2010 4289 1 BRIEF

OF DEFT. RANGE RESOURCES CORPORATION IN OPPOSITION
TO
PLTFS.' MOTION FOR PRE-COMPLAINT DISCOVERY.

08/27/2010 4289 2 BRIEF

OF DEFT. WILLIAMS GAS/LAUREL MOUNTAIN MIDSTREAM IN
OPPOS-

08/27/2010 4251 3 SUPPLEMENTAL

TION TO PLTFS.' MOTION FOR PRE-COMPLAINT DISCOVERY.
RESPONSE IN OPPOSITION TO PLTFS.' MOTION TO STAY ALL
RULES
TO FILE COMPLAINT AND FOR LEAVE OF COURT TO
CONDUCT PRE-
COMPLAINT DISCOVERY IN THE NATURE OF INFORMATION
AND DOCU-
MENT PRODUCTION FOR THE PURPOSE OF DRAFTING AND
SERVING A
SUFFICIENT COMPLAINT, AND MOTION TO STAY
PROCEEDING FOR A
SUFFICIENT PERIOD TO ALLOW PLTF. TO CONDUCT
DISCOVERY BY
THE DEFT. MARKWEST ENERGY PARTNERS, LP AND
MARKWEST ENERGY
GROUP, LLC.

11/17/2010 4208 1 ORDER

THAT UPON CONSIDERATION OF THE PLTFS.' MOTION FOR
LEAVE OF
COURT TO CONDUCT PRE-COMPLAINT DISCOVERY IN THE
NATURE OF
INFORMATION AND DOCUMENT PRODUCTION TO DRAFT
AND SERVE A
SUFFICIENT COMPLAINT, AND MOTION TO STAY
PROCEEDING FOR A
SUFFICIENT PERIOD TO ALLOW PLTF. TO CONDUCT
DISCOVERY, IT
IS HEREBY ORDERED THAT PLTFS.' MOTIONS ARE DENIED.
SEE
PAPER. PLTFS., STEPHANIE HALLOWICH AND CHRIS
HALLOWICH,
ARE HEREBY ORDERED TO FILE THEIR CIVIL COMPLAINT
PURSUANT
TO THE PENNSYLVANIA RULES OF CIVIL PROCEDURE.
POZONSKY, J. COPIES SENT ON 11-18-2010.

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Full Docket Print for Case #:

C-63-CV-201003954

07/11/2011 4101 1 PRAECIPE TO DISCONTINUE

AND SUIT DISMISSED WITH PREJUDICE WITH ALL PARTIES TO BEAR THEIR OWN COSTS BY PETER M. VILLARI, ATTORNEY FOR PLAINTIFFS

07/28/2011 4130 1 PETITION

FOR APPROVAL OF SETTLEMENT OF MINORS' ACTIONS PURSUANT TO P.A.R.C.P. 2039 AND LOCAL RULE 2039.I BY PLTFS.

07/28/2011 4074 2 MOTION

(JOINT) TO FILE PETITION FOR APPROVAL OF MINORS' ACTIONS UNDER SEAL BY PLTFS.

07/28/2011 4300 3 CERTIFICATE

OF SERVICE OF PLTFS.' PETITION FOR APPROVAL OF SETTLEMENT OF MINORS' ACTIONS UPON GAIL A. MYERS, ESQ., KATHY K. CONDO, ESQ., ERIN WINDLE MCDOWELL, ESQ., RICHARD HOSKING, ESQ. AND JAMES C. SWETZ, ESQ. VIA FIRST CLASS MAIL ON 7-27-2011.

07/28/2011 4300 4 CERTIFICATE

OF SERVICE OF JOINT MOTION TO FILE PETITION FOR APPROVAL OF SETTLEMENT OF MINORS' ACTIONS UNDER SEAL UPON GAIL A. MYERS, ESQ., KATHY K. CONDO, ESQ., ERIN WINDLE MCDOWELL, ESQ., RICHARD HOSKING, ESQ. AND JAMES C. SWETZ, ESQ. VIA FIRST CLASS MAIL ON 7-27-2011.

08/11/2011 4385 1 MOTION AND ORDER

[PROPOSED] SCHEDULING) THAT UPON CONSIDERATION OF THE JOINT MOTION FOR SCHEDULING ORDER, THIS COURT HEREBY SCHEDULES A HEARING IN CLOSED COURT CHAMBERS ON (I) PLTFS.' PETITION FOR APPROVAL OF SETTLEMENT OF MINORS' ACTIONS PURSUANT TO PA. R.C.P. 2039 AND LOCAL RULE 2039.I AND (II) THE JOINT MOTION TO FILE PETITION FOR APPROVAL OF SETTLEMENT OF MINORS' ACTIONS UNDER SEAL FOR WEDNESDAY, 08-24-2011, OR AS SOON THEREAFTER AS SUITS THE CONVENIENCE OF THE COURT. HEARING TO BE HELD 08-26-2011, AT 11:00 A.M. POZONSKY, J. (JOINT MOTION FOR SCHEDULING HEARING)

08/23/2011 4208 1 ORDER

THAT UPON CONSIDERATION OF THE JOINT MOTION TO FILE PETITION FOR APPROVAL OF MINORS' ACTIONS UNDER SEAL, AND THE CONFIDENTIAL AGREEMENT ATTACHED THERETO, IT IS HEREBY ORDERED THAT SAID MOTION IS GRANTED AND THAT THE FILE UNDER CASE NUMBER 2010-3954 BE SEALED INDEFINITELY IN ITS ENTIRETY. POZONSKY, J. COPIES SENT ON 08-23-2011.

08/23/2011 4208 2 ORDER

THAT THE PETITION IS GRANTED. POZONSKY, J. COPIES SENT ON 08-23-2011.

09/06/2011 4385 1 MOTION AND ORDER

THAT ARGUMENT SHALL BE HELD ON THE PG PUBLISHING COMPANY'S MOTION TO INTERVENE AND UNSEAL RECORDS ON 10-04-2011 AT 11:00 A.M. BEFORE THE HONORABLE PAUL POZONSKY.

Court of Common Pleas of Washington County
Commonwealth of Pennsylvania

Full Docket Print for Case #:

C-63-CV-201003954

09/06/2011 4385 1 MOTION AND ORDER

POZONSKY, J. (PG PUBLISHING COMPANY'S PETITION TO INTERVENE AND MOTION TO UNSEAL RECORD) TO INTERVENE AND JOINDER IN PG PUBLISHING COMPANY'S MOTION TO UNSEAL RECORD BY OBSERVER PUBLISHING COMPANY D/B/A OBSERVER REPORTER.

09/19/2011 4289 1 BRIEF

(JOINT) IN OPPOSITION TO PG PUBLISHING COMPANY'S AND THE OBSERVER PUBLISHING COMPANY'S PETITION TO INTERVENE AND MOTION TO UNSEAL RECORD BY THE DEFTS.

09/20/2011 4208 1 ORDER

OF 09-19-2011 THAT ARGUMENT AND HEARING ON THE OBSERVER'S MOTION TO INTERVENE AND JOINDER IN MOTION TO UNSEAL RECORD SHALL BE HELD ON 10-04-2011, AT 11:00 A.M. BEFORE THE UNDERSIGNED. POZONSKY, J.

10/03/2011 4289 1 BRIEF

(JOINT) IN SUPPORT OF PG PUBLISHING COMPANY'S AND OBSERVER PUBLISHING COMPANY'S PETITION TO INTERVENE AND MOTION TO UNSEAL RECORD BY THE INTERVENORS.

11/07/2011 4130 1 PETITION

(JOINT) FOR A HEARING BY THE PROPOSED INTERVENORS.

11/07/2011 4289 2 BRIEF

(JOINT) IN SUPPORT OF PG PUBLISHING COMPANY'S AND OBSERVER PUBLISHING COMPANY'S RIGHT TO INTERVENE BY THE PROPOSED INTERVENORS.

11/07/2011 4251 3 SUPPLEMENTAL

BRIEF IN OPPOSITION TO PG PUBLISHING COMPANY'S AND THE OBSERVER PUBLISHING COMPANY'S PETITION TO INTERVENE AND MOTION TO UNSEAL RECORD BY THE DEFTS.

11/14/2011 4130 1 PETITION

(EMERGENCY) FOR LIMITED UNSEALING OF THE RECORD AND FOR A RULING ON THE PARTIES' SETTLEMENT AGREEMENT AND RELEASE BY THE PLTFS.

11/14/2011 4300 2 CERTIFICATE

OF SERVICE OF PLTFS.' EMERGENCY PETITION FOR LIMITED UNSEALING OF THE RECORD AND FOR A RULING ON THE PARTIES' SETTLEMENT AGREEMENT AND RELEASE UPON (SEE PAPER) VIA REGULAR MAIL ON 11-10-2011.

11/28/2011 4023 1 ANSWER

TO PROPOSED INTERVENORS' JOINT PETITION FOR A HEARING BY THE DEFTS.

12/20/2011 4180 1 RULE

TO SHOW CAUSE THAT A RULE TO SHOW CAUSE IS HEREBY ISSUED AGAINST DEFTS. TO SUBMIT A WRITTEN RESPONSE AND BRIEFS ON OR BEFORE 01-24-2012 AS TO WHY THE RECORD IN THIS CASE SHOULD NOT BE UNSEALED. A HEARING ON THE ABOVE WILL BE

01/24/2012 4023 1 ANSWER

HELD AT 11:30 A.M. ON 01-31-2012. POZONSKY, J, TO PLTFS.' EMERGENCY PETITION FOR LIMITED UNSEALING OF THE RECORD AND FOR A RULING ON THE PARTIES' SETTLEMENT AGREEMENT AND RELEASE BY DEFT. WILLIAMS GAS/LAUREL MOUNTAIN MIDSTREAM.

Court of Common Pleas of Washington County
Commonwealth of Pennsylvania

Full Docket Print for Case #:

C-63-CV-201003954

01/24/2012 4023 2 ANSWER

TO PLTFS.' EMERGENCY PETITION FOR LIMITED UNSEALING OF THE RECORD AND FOR A RULING ON THE PARTIES' SETTLEMENT AGREEMENT AND RELEASE BY DEFT. MARKWEST ENERGY PARTNERS, L.P. AND MARKWEST ENERGY GROUP, L.L.C.

01/24/2012 4023 3 ANSWER

TO PLTFS.' EMERGENCY PETITION FOR LIMITED UNSEALING OF THE RECORD AND FOR A RULING ON THE PARTIES' SETTLEMENT AGREE-
MENT AND RELEASE BY DEFT. RANGE RESOURCES CORPORATION.

01/24/2012 4289 4 BRIEF

IN OPPOSITION TO PLTFS.' EMERGENCY PETITION FOR LIMITED UNSEALING OF THE RECORD AND FOR A RULING ON THE PARTIES' SETTLEMENT AGREEMENT AND RELEASE BY DEFT. RANGE RESOURCES CORPORATION.

01/31/2012 4242 1 PRAECIPE

TO ATTACH VERIFICATION BY PLTFS.

01/31/2012 4208 2 ORDER

THAT THE PROPOSED INTERVENORS' PETITION FOR A HEARING IS DENIED. THE PETITION TO INTERVENE AND MOTION TO UNSEAL THE RECORD FAILS TO COMPLY WITH THE PENNSYLVANIA RULES OF CIVIL PROCEDURE. SEE PAPER. FOR THAT REASON, AND IN FOLLOWING THE SUPERIOR COURT'S JURISPRUDENCE IN ALBRIGHT, THE PETITION TO INTERVENE AND MOTION TO UNSEAL THE RECORD IS HEREBY DENIED. POZONSKY, J.

02/01/2012 4208 1 ORDER

COPIES SENT ON 02-01-2012.

THAT AFTER REVIEW OF THE PLTFS.' EMERGENCY PETITION FOR LIMITED UNSEALING OF THE RECORD AND FOR A RULING ON THE PARTIES' SETTLEMENT AGREEMENT IT IS HEREBY ORDERED THAT THE PETITION IS HEREBY DENIED FOR FAILURE TO ATTACH A STATEMENT OF VERIFICATION FROM COUNSEL OR THE PARTIES AS REQUIRED BY PENNSYLVANIA RULE OF CIVIL PROCEDURE 206.3.

02/09/2012 4089 2 NOTICE OF APPEAL TO

POZONSKY, J. COPIES SENT ON 02-02-2012.

SUPERIOR COURT OF PA FROM ORDER ENTERED ON 1-31-2012.

PROOF OF SERVICE: HON. PAUL POZONSKY; GAIL A. MYERS, ESQ.;

ERIN WINDLE MCDOWELL, ESQ.; KATHY K. CONDO-CARITIS, ESQ.;

JAMES C. SWETZ, ESQ.; PETER VILLARI, ESQ.; FREDERICK N. FRANK, ESQ.; DOCKETING ENTRIES BY COLIN E. FITCH, ESQ.

02/09/2012 4089 4 NOTICE OF APPEAL TO

SUPERIOR COURT OF PA FROM ORDER ENTERED ON 1-31-2012.

PROOF OF SERVICE: HON. PAUL POZONSKY, JUDGE; GAIL A. MYERS, ESQ.;

ERIN WINDLE MCDOWELL, ESQ.; KATHY K. CONDO-CARITIS, ESQ.;

JAMES C. SWETZ, ESQ.; PETER VILLARI, ESQ.; COLIN E. FITCH, ESQ.; DOCKETING ENTRIES BY FREDERICK N. FRANK, ESQ.

Court of Common Pleas of Washington County
Commonwealth of Pennsylvania

C-63-CV-201003954

Full Docket Print for Case #:

02/09/2012 4243 5 REQUEST
02/09/2012 4243 6 REQUEST

02/17/2012 4208 1 ORDER

02/21/2012 4229 1 NOTICE

02/21/2012 4229 2 NOTICE

02/27/2012 4208 1 ORDER

02/29/2012 4208 1 ORDER

03/06/2012 4187 1 STATMNT OF MATTERS COMPLAINED OF

03/07/2012 4187 1 STATMNT OF MATTERS COMPLAINED OF

03/14/2012 4012 1 AFFIDAVIT OF SERVICE OF

04/02/2012 4099 1 OPINION

04/04/2012 4128 1 PAPERS FORWARDED TO

04/04/2012 4372 2 LIST OF RECORD DOCUMENTS SENT

04/16/2012 4297 1 TESTIMONY LODGED

04/16/2012 4195 2 TESTIMONY TAKEN BEFORE

04/20/2012 4128 1 PAPERS FORWARDED TO

12/17/2012 4023 1 ANSWER

FOR TRANSCRIPT BY PG PUBLISHING COMPANY.

FOR TRANSCRIPT BY OBSERVER PUBLISHING COMPANY
D/B/A

OBSERVER REPORTER.

THAT THE COURT ADMINISTRATOR SHALL ORDER
TRANSCRIPTION

PURSUANT TO THE PROVISIONS OF PA. R.J.A. 5000.5 AND
5000.6. POZONSKY, J.

(TRANSCRIPT REQUEST FORM) COPIES SENT ON 02-21-2012.
OF APPEAL DOCKETING #234 WDA 2012 FROM SUPERIOR
COURT OF
PA.

OF APPEAL DOCKETING #235 WDA 2012 FROM SUPERIOR
COURT OF
PA.

OF 02-21-2012 THAT THE COURT HAS RECEIVED NOTICE OF
APPEAL
IN THE ABOVE-CAPTIONED PROCEEDINGS. SEE PAPER. ANY
ISSUE

NOT PROPERLY INCLUDED IN THE TIMELY FILED AND
SERVED STATE-

MENT SHALL BE DEEMED WAIVED. POZONSKY, J.

COPIES SENT ON 02-28-2012.

THAT THE COURT ADMINISTRATOR SHALL ORDER
TRANSCRIPTION

PURSUANT TO THE PROVISIONS OF PA.RJA 5000.5 AND 5000.6.
POZONSKY,J. (TRANSCRIPT REQUEST FORM)

ON APPEAL PURSUANT TO PA.R.A.P. 1925(B) (PG PUBLISHING
COMPANY'S CONCISE).

MATTERS COMPLAINED OF ON APPEAL PURSUANT TO PA.
R.A.P.

1925(B) BY THE OBSERVER PUBLISHING COMPANY D/B/A
OBSERVER-
REPORTER (CONCISE).

PG PUBLISHING COMPANY'S CONCISE STATEMENT OF
MATTERS
COMPLAINED OF UPON APPEAL PURSUANT TO PA.R.A.P.
1925(B)

UPON THE HONORABLE PAUL POZONSKY BY HAND
DELIVERY ON
3-6-2012.

PURSUANT TO PENNSYLVANIA RULE OF APPELLATE
PROCEDURE 1925 (A)

THAT THIS APPEAL STEMS FROM A LAWSUIT FILED ON
05-27-2012

BY THE PLTFS. SEE PAPER. POZONSKY, J.

COPIES SENT ON 04-02-2012.

SUPERIOR COURT OF PA. CERT MAIL #7010 2780 0003 7092
1775.

TO: FREDERICK N. FRANK, ESQ.; JAMES C. SWETZ, ESQ.;
KATHY
K. CONDO-CARITIS, ESQ.; ERIN WINDLE MCDOWELL, ESQ.;
COLIN
E. FITCH, ESQ.; GAIL A. MYERS, ESQ.; ROBERT N. WILKEY,
ESQ.; RICHARD W. HOSKING, ESQ.

THE HONORABLE PAUL POZONSKY, J. ON 01-31-2012.

SUPERIOR COURT OF PA. CERT MAIL #7010 0780 0000 3845
2807.

(ADD'l PAPERS #57 TRANSCRIPT).

TO PROPOSED INTERVENORS' JOINT PETITION FOR
EXPEDITED

Court of Common Pleas of Washington County
Commonwealth of Pennsylvania

C-63-CV-201003954

Full Docket Print for Case #:

12/17/2012 4023 1 ANSWER
12/18/2012 4023 1 ANSWER

12/19/2012 4130 1 PETITION

12/21/2012 4023 1 ANSWER

01/08/2013 4289 1 BRIEF

01/08/2013 4034 2 APPEARANCE OF

01/08/2013 4074 3 MOTION

01/08/2013 4289 4 BRIEF

01/14/2013 4074 1 MOTION

01/14/2013 4034 2 APPEARANCE OF

ARGUMENT AND HEARING BY MARK WEST.
TO INTERVENORS' JOINT PETITION FOR EXPEDITED
ARGUMENT AND
HEARING BY WILLIAMS GAS/LAUREL MOUNTAIN
MIDSTREAM.
(INTERVENOR'S JOINT) FOR EXPEDITED ARGUMENT AND
HEARING
AND ORDER THAT AN EXPEDITED HALF-DAY ARGUMENT
AND HEARING
IS SCHEDULED BEFORE THIS COURT ON 01-18-2013 AT 9:30
A.M.

IN COURTROOM 1. SEE PAPER. O'DELL SENECA, J.
TO PROPOSED INTERVENORS' JOINT PETITION FOR
EXPEDITED
ARGUMENT AND HEARING BY THE DEFT. RANGE
RESOURCES CORPORA-
TION.

(INTERVENORS' JOINT) IN SUPPORT OF PG PUBLISHING
COMPANY'S
AND OBSERVER PUBLISHING COMPANY'S MOTION TO
UNSEAL RECORD.

CHARLES MCPHEDRAN ATTY FOR AMICI CURIAE
PHILADELPHIA
PHYSICIANS FOR SOCIAL RESPONSIBILITY; PHYSICIANS,
SCIEN-
TISTS, AND ENGINEERS FOR HEALTHY ENERGY; DR.
BERNARD D.
GOLDSTEIN; DR. WALTER TSOU; DR. JEROME A. PAULSON;
DR.
WILLIAM ROM; DR. SANDRA STEINGRABER; DR. SIMONA
PERRY;
DR. ROBERT OSWALD; DR. MICHELLE BAMBERGER;
KATHRYN VENNIE;
AND EARTHWORKS.

FOR LEAVE TO FILE AMICI CURIAE BRIEF.
OF AMICI CUIAE PHILADELPHIA PHYSICIANS FOR SOCIAL
RESPONSI-
BILITY; PHYSICIANS, SCIENTISTS, AND ENGINEERS FOR
HEALTHY
ENERGY; DR. BERNARD D. GOLDSTEIN; DR. WALTER TSOU;
DR.
JEROME A. PAULSON; DR. WILLIAM ROM; DR. SANDRA
STEINGRABER;
DR. SIMONA PERRY; DR. ROBERT OSWALD; DR. MICHELLE
BAMBER-
GER; KATHERYN VENNIE AND EARTHWORKS IN SUPPORT OF
PROPOSED
INTERVENORS.

FOR ADMISSION PRO HAC VICE BY EMILY A. COLLINS, ESQ.
(NOTICE OF PRESENTATION)

EMILY A. COLLINS, ESQ. AS COUNSEL ON BEHALF OF
PROPOSED
AMICI CURIAE PHILADELPHIA PHYSICIANS FOR SOCIAL
RESPONSI-
BILITY; PHYSICIANS, SCIENTISTS, AND ENGINEERS FOR
HEALTHY
ENERGY; DR. BERNARD D. GOLDSTEIN; DR. WALTER TSOU;
DR.
JEROME A. PAULSON; DR. WILLIAM ROM; DR. SANDRA
STEINGRABER;
DR. SIMONA PERRY; DR. ROBERT OSWALD; DR. MICHELLE
BAMBERGER;
KATHRYN VENNIE; AND EARTHWORKS.

Court of Common Pleas of Washington County
Commonwealth of Pennsylvania

Full Docket Print for Case #:

C-63-CV-201003954

01/16/2013 4034 1 APPEARANCE OF

PHILLIP J. BINOTTO OF ECKERT SEAMANS CHERIN &
MELLOTT, LLC
FOR DEFTS. MARKWEST ENERGY PARTNERS, L.P., AND
MARKWEST
ENERGY GROUP, L.L.C.

01/16/2013 4260 2 RECEIVED

OPPOSITION TO MOTION FOR LEAVE TO FILE AMICI CURIAE
BRIEF BY
DEFTS. RANGE RESOURCES CORPORATION, WILLIAMS
GAS/LAUREL
MOUNTAIN MIDSTREAM, MARKWEST ENERGY PARTNERS,
L.P., AND
MARKWEST ENERGY GROUP, L.L.C. (COLLECTIVELY, THE
"COMPANIES").

01/16/2013 4289 3 BRIEF

IN OPPOSITION TO MOTION TO UNSEAL RECORD BY DEFTS.
RANGE
RESOURCES CORPORATION, WILLIAMS GAS/LAUREL
MOUNTAIN MID-
STREAM, MARKWEST ENERGY PARTNERS, L.P. AND
MARKWEST ENERGY
GROUP, L.L.C. (COLLECTIVELY, THE "COMPANIES").

01/24/2013 4208 1 ORDER

OF 01-18-2013 DENIED. O'DELL SENECA, J.

01/28/2013 4260 1 RECEIVED

COPIES SENT ON 01-24-2013.

MEMORANDUM FROM SUPERIOR COURT OF PA AT 234 WDA
2012 AND
235 WDA 2012 FILED 12-7-2012 THAT ORDERS VACATED. CASE
REMANDED WITH INSTRUCTIONS. JURISDICTION
RELINQUISHED.

OTT, J. FILES A CONCURRING AND DISSENTING
MEMORANDUM.

01/28/2013 4298 2 PAPERS RETURNED FROM

SUPERIOR COURT OF PA.

03/20/2013 4099 1 OPINION

AND ORDER THAT THIS COURT'S 08-23-2011 ORDER, WHICH
SEALED

THE RECORD IN THIS MATTER, IS REVERSED.

O'DELL SENECA, P.J. COPIES SENT ON 03-20-2013.

Judgment Summary

Judgment seq:

Judgement Amt:

Judgement Date:

Judgement Code:

Judgement Text:

Party Details

(C)orp or (P)erson: C